

T H E  
**Practical Justice**  
O F  
**P E A C E:**

O R,  
A TREATISE shewing the  
POWER and AUTHORITY of that  
OFFICE in all its Branches.

Extracted from the several Books hitherto  
written on that Subject, and digested under  
proper Titles, in an Alphabetical Method.

To which are added,  
Great Variety of the most useful Precedents,  
inserted under their proper Heads, and  
brought down to this present Year 1728.

Together with  
An ALPHABETICAL TABLE of all those  
Statutes which relate to the Titles contained in this  
Work, and of the Titles themselves.

The Whole fitted for the Use of Justices of  
Peace, Coroners, Sheriffs, Clerks of Assize, and of  
the Peace, Commissioners of Sewers, Overseers  
of the Poor, Surveyors of the Highways, Church-  
wardens, and others.

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By *JOSEPH SHAW*, of the *Middle*  
*Temple, Esq;*

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In Two Volumes.

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V O L. II.

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# Practical Justice OF PEACE:

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By JOSEPH SMITH, of the Middle  
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Temple.

# THE PRACTICAL Justice of Peace, &c.

VOL. II.

Labourers. Vide Apprentices.

## Lamps and Lights.

**H**ousekeepers in *London*, or within the weekly Bills of Mortality, whose Houses adjoin to, or are near the Street, are to hang out Lights every Night from *Michaelmas* to *Lady-Day*, from the Time it is dark, till Twelve a-Clock, or to pay for Lamps, under the Penalty of 2s. for every Default, to be levied by Distress; and if not paid in six Days, to be committed till Payment. 2 W. & M.

Conviction to be on View of Justice, Confession, or the Oath of one Witness before one Justice.

Two Justices are to approve the Distance which one Lamp is to be set from another.

VOL. II.

B

A War:

## Lamps and Lights.

2 W. & M.

### A Warrant to levy the Penalty for Default of putting up Lamps.

**W**Hereas it has been duly proved before me, that A. B. of your Parish, has made Default in hanging out a Light at his Door for three Nights successively, viz. 1, 2, and 3, &c. of this Instant, &c. without making any Agreement for Lamps in their Ward, contrary to an Act of Parliament in that Case made: These are therefore to require you to levy, by Distress of the Goods of the said A. B. the Sum of 6 s. which he has forfeited for the three several Defaults aforesaid. Given, &c.

## Larceny. Vide Felony.

## Leather, Hides, &c.

**T**HE two chief Statutes which relate to Leather are, 1 Jac. 1. c. 22. and 9 Anne c. 11.

Tanners to serve 7 Years Apprenticeship, &c.

No Person shall tan Leather, &c. unless he hath served an Apprenticeship for seven Years, or been instructed therein for that Time, or be a Widow or Daughter of a Tanner, by whom a Tanfat shall be left, or a Son to whom such Tanfat shall be so left, which hath used the Trade for four Years, on Pain of forfeiting the Leather tanned, or the Value thereof. 1 Jac. 1. cap. 22. And if a Butcher use the Trade of a Tanner, he shall forfeit 6 s. 8 d. per Day.

Hides not to be gashed.

If any Hides shall be gashed by the Currier in shaving, such Currier shall forfeit to the Party grieved double Damages; and if spoiled or impaired, the Forfeiture is 6 s. 8 d. besides the Value of the Hide or Skin.

Nor bought rough in the Hair; but by Tanners; nor watered.

Hides must not be bought rough in the Hair by any Persons but Tanners (except Salt Hides for the Use of Ships) on Pain of forfeiting the Hides, or the Value: Or watered, except in the Months of June, July, and August, on forfeiting 3 s. 4 d. for every Hide; and if tanned Leather be bought at any other Place but in Fairs and Markets, there is a Forfeiture of 6 s. 8 d. per Hide.

Leather must be bought in Fair or Market.



# Leather; Hides, &c.

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If any Person tan unsound Hides, not continued Sole-Leather twelve Months in the Woofes, and upper Leather nine Months, or shall neglect to work Hides in Woofe, or not renew and strengthen them, he shall forfeit every Hide so tanned, and put to Sale: The same Forfeiture, if he shall raise Hides for Sole-Leather by any Mixture; and if a Tanner batheneth the Tanning by any unkind Heats with hot Water, he forfeits 10 *l*. and shall stand in the Pillory in the next Market-Town on three Market-Days. 1 *Ja. 1. cap. 22.*

Hides or Skins of Ox, Steer, Bull, Cow, Calf, Deer, Goat and Sheep tanned or tawed, and Salt Hides are reputed Leather within the Act 1 *Ja. 1. cap. 22.* And if a Tanner shall overlime Hides, or use any Thing but the Bark of Ash or Oak, Culver-Dung, or Hen-Dung, Lime, Malt, Meal, Tapwort, he shall forfeit every Hide; and if he shall suffer Hides to be frozen, or be parched with Fire or the Sun, the Forfeiture is the same.

If any Leather shall be put to Sale not being sufficiently tanned and dried, the Person exposing it to Sale, shall forfeit the same. And if any Person shall buy any tanned Leather before it be searched and sealed, or shall carry it out of the Fair or Market before it is registred, he shall forfeit 5 *l*. to be divided into three Parts, in London; one to the Seizor of the Leather; another to the Chamber of London; and the Third to the Poor; to be recovered in the Quarter-Sessions. 1 *Ja. 1. cap. 22.*

The Mayor and Aldermen of London are to choose and swear yearly eight expert Men out of some of the Companies of Shoemakers, Curriers, Girdlers and Sadlers, to be Searchers and Sealers of all tanned Leather, (one of which Number is to be Seal-keeper) on Pain of forfeiting 40 *s*. to be divided between the King and Prosecutor. And Head Officers in Corporate and Market Towns, and Lords of Liberties and their Stewards are to appoint and swear yearly two at the least, honest and skilful Men, to be Searchers and Sealers of Leather on the like Forfeiture of 40 *s*. And Searcher or Sealer refusing to execute the Office, forfeits 10 *l*. 1 *Ja. 1. cap. 22.*

Searcher or Sealer refusing to do his Duty in convenient Time, or approving insufficient Wares, is liable to the Forfeiture of 40 *s*. and if a Searcher or Sealer shall take any Bribe, or exact more than the Fees which belong to his Office, he shall forfeit 20 *s*. to be divided into three Parts, as above, in case Lea-

B 2

Tanning un-  
Sound Leather  
&c. the For-  
feiture.

Shoe-maker  
dying in the  
tanning  
of hides, &c.  
to be punished

What Hides  
esteemed Lea-  
ther.

Materials in  
Tanning.

Leather not  
well tanned  
and dried;  
searched and  
sealed, &c.

Forfeiture.

Searcher, &c.  
refusing to do  
his Duty, how  
punished.

Searcher, &c.  
refusing to do  
his Duty, how  
punished.

One hindring  
a Searcher in  
his Office, for-  
feits 5 l.

ther shall be bought before it shall be searched and sealed, &c. And if any Person hinder the Searcher or Sealer in the Execution of their Office, he forfeits 5 l.

If any Person shall sell tanned Leather (red or unwrought) before it be registred, he shall forfeit the Value thereof, to be divided in Thirds, *ut supra*.

Wares made  
of Leather to  
be viewed e-  
very Quarter  
of a Year.

And in London the Master and Wardens of the Companies of Shoe-makers, &c. are to make a Search every Quarter of a Year at least, and view all Wares made of tanned Leather, and have Power to seize all insufficient Leather; and if they neglect to make such Search, they shall forfeit 40 s. for every Year's Default. 1 *Fa. 1. cap. 22.*

The Lord Mayor of London, Head Officers in Corporate Towns, and Lords of Liberties, have Power to appoint Triers of the Sufficiency of Leather.

If any Person expose to Sale tanned Leather unwrought, unless in Fair or Market, not searched and sealed before, or shall offer to sell any such Leather before it be searched and sealed, he forfeits 6 s. 8 d. for every Hide, and 3 s. 4 d. for every Dozen of Calf-Skins or Sheep-Skins, besides the Hides and Skins themselves.

The Forfeiture  
for forestalling  
Hides.

If any Person shall forestall Hides, or buy them otherwise than in open Fair or Market, he shall forfeit 6 s. 8 d. per Hide; and if any Person shall buy rough Hides or Calves-Skins in the Hair, except such as can lawfully tan them, he shall forfeit them, or the Value.

When Trees  
are to be cut  
down for  
Bark.

Where Oak-Trees are felled, which will produce Bark, when the Bark is worth 2 s. a Cart-Load, (except Timber for Repairs of Houses, Ships, &c.) if the Fellers shall cut them down at any other Season in the Year but between the first Day of April and the last Day of June, they shall forfeit the Trees, or double the Value of them. 1 *Fa. 1. cap. 22.* And if any Person shall engross Bark with Intent to sell the same again, he shall forfeit the same, or the Value.

Ingrossing  
Bark.

Curriers ma-  
king up Lea-  
ther before it  
be searched.

If a Currier in London make into Wares any curried Leather before it be searched and sealed, he shall forfeit 6 s. 8 d. for every Hide and Skin, and the Value of every such Hide and Skin. 1 *Fa. 1. cap. 22.*

Currier not  
to use the  
Trade of Tan-  
ner, Shoe-ma-  
ker, &c.

And if a Currier shall use the Art of a Tanner, Shoe-maker, Butcher, or any other Trade which depends upon cutting of Leather, he shall forfeit 6 s. 8 d. for every Hide and Skin he shall cut. 1 *Fa. 1. cap. 22.*

Ar-

# Leather, Hides, &c.

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Artificers concerned in Leather selling any where but in open Shop or Market, &c. where due Search may be made, shall forfeit the Wares and 10 s. for every Offence.

Leather to be sold in open Shop, Market, &c.

If any Shoe-maker shall make Boots and Shoes of insufficient Leather, and sew them slight and ill, or shall sell them on *Sundays*, he shall forfeit 3 s. 4 d. for every Offence, and the full Value of the Wares made and sold. 1 *Fa. 1. cap. 22.*

Shoe-maker using insufficient Leather.

If a Currier in *London* shall not curry his Leather well, he shall forfeit the same, or the Value. And if a Currier shall buy tanned Leather, and curry it, and sell the same to a Shoe-maker not cut out, he is punishable. 1 *Cro. 425.*

Currier not doing his Duty, how punished.

By Statute 9 *Annæ c. 11.* A Tanner or other Person shaving or causing to be shaved Hides or Calf-Skins before they are tanned, whereby it shall be impaired, or the Duty diminished, he shall forfeit such Hides or Skins, or the Value, by Warrant from two Justices, to be levied by Distress; but such Justices have Power to mitigate the Penalty, so as the same be not reduced to less than a fourth Part, besides the Costs and Charges in the Prosecution. Prosecution must be in three Months.

All Tanners, Curriers, Tawers, Leather-Dressers, Hide-Dressers, Makers of Vellum and Parchment, are to give Notice in Writing to the proper Officer of their respective Names and Places of Abode, Tan-Houses, Yards, Work-Houses, Mills, or other Places for Tanning, Tawing, or Dressing any such Hides or Skins, or shall forfeit 50 l. to the King and Informer, subject to Mitigation, *ut supra.* And if Owners or Occupiers of such Tan-Yards, &c. refuse the proper Officer Entrance, they shall forfeit 50 l.

Tanners, &c. to give in their Names, and where their Tan-Yards lie, &c.

If any Tanner, Tawer, Currier or Dresser of Hides, &c. shall use any private Tan-yard, &c. or shall not give timely Notice of taking the Hides, &c. out of the Wooze, or do not make Entries of Hides, &c. or shall remove or carry away the same, or any Part thereof; or hide, or conceal any Skins, &c. he shall forfeit 20 l. and the Skins, &c. but the Penalty may be mitigated, as above.

Using private Tan Yards.

If any Tanner, &c. shall not keep just Scales and Weights, or shall not permit, or shall neglect to bring to be weighed, or to assist at the Weighing or Removing Hides, &c. before the Duties are charged, and the Skins, &c. marked, he shall forfeit 50 l. subject to Mitigation.

Forfeiture.

Just Scales and Weights to be kept.



Tanners not  
Paying Duty  
forfeit double.

Tanners, &c. not paying the Duty with which Hides and Skins are chargeable, shall forfeit double the Duty. And if they shall send, deliver, or carry out any Hides, &c. before the Duty is paid, they shall forfeit double the Value of such Hides so delivered, &c. but liable to Mitigation.

Tanners to ac-  
count for  
the Duty  
once in three  
Months.  
Officer's Duty.

Tanners, &c. not accounting with the proper Officers once in three Months, shall forfeit 30*l.* but may be mitigated, *ut supra*.

If any Officer shall take any Fee or Reward for Entries, Accounts, Permissions, Certificates, Marks or Receipts, he shall forfeit five Pounds to the Party grieved.

Justice's Power  
to administer  
Oaths, &c.

One Justice hath Power to administer Oaths to Tanners, &c. of their making Entries, and giving Notice, &c. to Officers, and also to administer Oaths to Officers for the Duties on Hides, &c. before they act.

'Tis now law-  
ful to export  
Leather.

By the Act 1 *Ja.* 1. Exportation of Leather was prohibited, but by 20 *Car.* 2. *cap.* 5. it was made law-ful, paying for every Hundred Weight 12*d.* which Act was revived by 1 *W. & M.*

How the For-  
feitures are to  
be applied.

The Money forfeited by 1 *Ja.* 1. must be divided into three Parts, *viz.* between the King, Prosecutor, and Corporation, or Lord of the Liberty.

The Value of the Wares, if within the Jurisdiction of London, into three Parts, *viz.* between the Seisor, Chamber of London, and Poor; and in all other Places between the Seisor, Head Officer, and to charitable Uses.

Two Justices  
may hear and  
determine; but  
Appeal lies  
to the Quar-  
ter-Sessions.

Two Justices may hear and determine Offences against both the said Acts by summoning the Party accused, and the Witnesses on either Side, and examining them on Oath; but the Prosecution must be within three Months after Seizure, for the Offence committed; and an Appeal lies to the Sessions, and no *Certiorari* shall be allowed; yet the Justices may mitigate the Forfeiture, so as the Charges of Prosecution be allowed over and above such Mitigation; and so as the Penalty be not reduced to less than a fourth Part.

N. B. That Commissioners on this Statute have the same Power as Commissioners of Excise; and all Commissioners and Officers are liable to the same Disabilities and Forfeitures as in 9 & 10 *W.* 3. *cap.* 24.

Stat. 10 *Anna* *cap.* 26. lays Additional Duties on Hides, &c.

By the aforesaid Stat. 9 *Anna* *c.* 11. 'tis enacted, that after the Duty is paid, and Entry thereof made in the

## Leather, Hides, &c.

the Officer's Book, he shall cause every Hide and Skin to be marked in such Place as the Tanner desires; and if removed from the Yard or Drying-Place by the Tanner, &c. or if any Buyer shall carry it from thence before it shall be marked, they shall respectively forfeit 50 l. for each Offence; one Moiety to the Crown, the other to the Informer, and the Skins are forfeited to the Crown. *9 Ann. c. 11.*

Officers to mark the Hides as Tanner desires.

And no Information shall be brought in the Courts at Westminster, in Cases where these Offences are cognizable by the Justices; and no *Certiorari* shall be allowed to remove their Proceedings; but their Determination shall be final.

A Currier bought two Hides of Tanned Leather of Persons unknown; and after curried them with Oil and Tallow, and other Things necessary, and after shaved and dyed them, and so being wrought sold them. The Court held that this is a Buying and Selling by Wholesale; and a Currier may not buy nor sell by Wholesale, within the Statute *1 Jac. 1. c. 22. Trin. 16. Car. 1. Cra. Car. 587. Jones's Rep. 467. Lodge ver. Hollowell.*

Curriers not to buy nor sell by Wholesale.

**An Information against a Person not being a Tanner, for buying raw Hides and selling them again not tanned.**

Essex. ff. **M**emozand' qd' ec. ben' A. B. qui tam ec. & dat' curie hic intelligi & informari quod quidam L. M. de C. in Com' p'ced' futor 18 die Martii ult' p'ferit ante exhibitionem huius informationis apud C. p'ced' in Com' p'ced' remebat de diversis personis quatuor nomina p'fata A. B. qui tam ec. Innotuit sunt viginti pelles hirsutae (Angl' rough Hides) p'p'rii cuiuslibet pellis inde 6 s. 8 d. p'fata L. M. adunc non erant copiator vel persona que licite possunt pelles p'ced' deplere que quidam pelles non fuerunt facte pro usu necessario narium contra formam Statut' in huiusmodi causa edit' & p'p'os' per quod p'ced' L. M. forisfecit ec. legalis monete viz. valore p'ced' pellium unde p'ced' A. B. tam pro eodem Domino Rege quam pro seipso per advisamentum curie in p'p'missis quodque forisfecit p'ced' in tres equales partes dividatur iuxta formam Statut' p'ced' ad quod ipse idem A. B. qui tam ec. unam partem inde habere valeat iuxta formam Statut' p'ced'.

*1 Jac. 1. c. 22.*

Information against a Tanner for exposing tanned Leather red and unwrought to Sale, not in a Fair or Market.

3 Jac. 1. c. 22. *Essex. ff.* **M**emozand' quod ec. ben' A. B. qui tam ec. & dat cur' hic intelligi & informari quod L. M. de C. in Com' pzed' roziatoz 8<sup>o</sup> die Martii ult' preterit' & diversis al' diebus ante exhibitionem hujus informationis apud C. pzed' in Com' pd' venditioni exposuit & vendi & exponi causavit cuidam J. K. de L. ec. & diversis al' personis pzetat' A. B. qui tam ec. adhuc incognit' quinque pelles roziatas rubzas & inelaborat' (Anglice unwrought) que quidem pelles non fuer' per pzetat' L. M. adtunc & ibidem venditioni exposuit in aliquo aperto mundino (Angl' Fair or Market) nec ante tunc fuerunt scrutat' & sigillat' in aliquo aperto mundino (Angl' Fair or Market) contra formam Statut' in hujusmodi casu edit' & provis' unde pzed' A. B. qui tam ec. petit advisament' cur' in pzetatis ec.

A Warrant against one for using the Trade of a Tanner without serving an Apprenticeship, or being otherwise legally qualified to do it.

3 Jac. 1. *Essex. ff.* **W**hereas Complaint hath been made unto us A. B. and C. D. Esq; two of his Majesty's Justices of the Peace for the County aforesaid, that E. F. of your Parish hath of late tanned a great Quantity of Leather in the Tan-yard of, &c. and continues so to do, without having served an Apprenticeship of Seven Years to the Trade of a Tanner, or being otherwise legally qualified to do the same, contrary to an Act of Parliament in that case made: These are therefore in his Majesty's Name to command you to apprehend the said E. F. and bring him before us or some other of his Majesty's Justices of the Peace for this County, to answer the Premises, and be dealt with according to Law. Given, &c.

A War-



**A Warrant to levy the Forfeiture for buying Leather before it be searched and sealed.**

Essex. ff. **W** Hereas A. B. of, &c. hath this Day made 1 Jac. 1.  
Oath that on, &c. last past, he saw C. D. of, &c. Shoe-maker, in the Fair or Market of, &c. buy of, &c. two Hides of Neats-Leather, which Leather was not searched and sealed according to the Statutes; whereby the said C. D. has forfeited the Sum of 5l. These are therefore to require you to levy the said Sum of 5l. by Distress and Sale of the Goods and Chattels of the said C. D. and that you do dispose of the same according to the Direction of the Acts of Parliament in that Case made. Given, &c.

**A Warrant to levy the Forfeiture for resisting a Searcher or Sealer in the Execution of his Office.**

Essex. ff. **W** Hereas A. B. of, &c. Searcher and Sealer of Leather within the Liberty of, &c. hath this Day made Information on Oath before us, that C. D. of, &c. Tanner, did on, &c. last past, resist and abuse the said A. B. at, &c. in the Execution of his Office, inso-much that he was not able to proceed in his Business, but was forced thro' violent bad Usage, to quit the same, contrary to the Act of Parliament in that Case made and provided: These are therefore to command you to levy the Sum of 5l. on the Goods and Chattels of the said C. D. which he hath forfeited by the Offence aforesaid. Given, &c.

**A Warrant against a Shoe-maker for using bad Leather.**

Essex. ff. **W** Hereas A. B. of, &c. Gent. hath this 1 Jac. 1.  
Day given Information to us, that C. D. of, &c. Shoe-maker, lately sold him one Pair of Boots and two Pair of Shoes, which are not only slightly sewed, but also made of bad and insufficient Leather, whereby they have done the said A. B. little or no Service, to the Deceit of the said A. B. and contrary to Law: These are therefore in his Majesty's Name to command you to levy the Sum of 3s. 4d. on the Goods and Chattels of the said C. D. by Distress

## Leather, Hides, &amp;c.

Distress and Sale thereof, which he hath forfeited by the Offence aforesaid. Given, &c.

**A Warrant to levy the Forfeiture of a Tun-  
ner, for using a private Tan-Yard to defraud  
the King of his Duty.**

9 Annz.

Essex. ff. **W** Hereas A. B. of, &c. Officer for charg-  
ing the Duty on Leather, hath this Day  
made Oath before us, that C. D. of, &c. Tanner, hath  
lately made Use of a private Tan-yard, for Tanning of Lea-  
ther, in the Parish of, &c. without giving any Notice of the  
said Tan-yard, or making any Entry of the Hides there  
tanned, to the Defrauding the King of his Duty for such  
Leather; whereby he is liable to the Penalty of 20l. But  
as we have Power to mitigate such Penalty, so as the same  
be not reduced to less than one fourth Part of the said Pe-  
nalty, besides the Costs and Charges of the Prosecution; we  
do hereby mitigate the said Sum of 20l. to the Sum of 7l.  
And these are in his Majesty's Name, to command you to  
levy the said Sum of 7l. which he hath forfeited by the Of-  
fence aforesaid, by Distress and Sale of the Goods and Chat-  
tels of the said C. D. and that you do pay the same to the  
said A. B. as the Prosecutor. Given, &c.

**A Warrant against a Tunner, for not paying  
the Duty on Hides, to levy the Forfeiture.**

9 Annz.

Essex. ff. **W** Hereas A. B. of, &c. Gent. Officer of Ex-  
cise for the Duty on Leather, hath this  
Day made Information on Oath before us, &c. two of his  
Majesty's Justices of the Peace for the County aforesaid, that  
C. D. of, &c. Tanner, hath refused and neglected to pay the  
Sum of twenty Shillings with which he is justly charged,  
for Duty on tanned Leather: These are therefore in his  
Majesty's Name, to command you to levy the Sum of 40s.  
which he hath forfeited by the Offence aforesaid, by Distress  
and Sale of the Goods and Chattels of the said C. D. Here-  
of fail not. Given, &c.

**A War-**

## Leather, Hides, &c.

11

A Warrant to levy the 50 l. or the mitigated Penalty, for carrying away from the Tanner's Yard, Skins before they were mark'd by the proper Officer.

To the Constable.

Essex. s. **W** Hereas Complaint hath been made unto us A. B. and C. D. two of his Majesty's Justices of Peace for the said County; and both of us residing near the Place where the Offence herein after mentioned was committed, that L. M. of, &c. did on the 30th Day of this Instant July carry away from the Tan yard of R. C. in, &c. two Calf-Skins before the same were marked by the proper Officer, for that Purpose appointed, and contrary to the Statute in that Case made and provided: We did therefore command the said L. M. to appear before us on the Day of the Date hereof, at the House of P. S. in M. &c. commonly known by the Name of the Red-Lion, where he did appear accordingly: And we upon Examination of Witnesses and due Proof thereof made on Oath, did then and there adjudge the said L. M. to be guilty of and in the Premises, by Reason whereof he hath forfeited 50 l. We do therefore require you forthwith to levy the Sum of 25 l. upon the Goods and Chattels of the said L. M. to which last Sum we have mitigated the aforesaid Forfeiture of 50 l. And if the Goods so taken shall not be redeemed within six Days afterwards, that then you sell the same, and pay one Moiety of the 25 l. to the King, and the other Moiety to R. B. who first informed us of the said Offence, deducting 5 l. for his Charges in the Prosecution hereof. Given, &c.

9 Annæ.

+ Or as the Offence is.

## Leet.

**T**HIS is a Court of Record, and derived out of the Sheriff's Tourn for the Ease of the People within particular Districts and that they might not be at the Charge or Loss of Time to travel to the Sheriff's Tourn. It was therefore granted by the King, to particular Lords, who were to view the Tenants and Reliants at certain Times in their Manors; and from hence 'tis called *Curia visus franci plagii*.

Before the Institution of the Leet, every Freeman when he was twelve Years old, was bound to take the Oath of Allegiance in the Tourn; and after the Leet was established, then he was bound to take it within that particular Precinct; and if he could not then

Before the Conquest.

Before Leets every Man sworn in the Sheriff's Town.



Frank-Pledges  
what.

find Pledges for his Truth to the King and the People, he was to be committed till he could.

These Pledges, or free Pledges, consisted of ten Families, the Masters whereof were bound for one another and their Families, that each Person therein should stand to the Law; and if he was not to be found, that then they should answer for any Injury he had done.

To consist of  
ten Families.

And these were the Pledges the Lord or his Steward were to view in the Leet, which comprehended those ten Families and no more; but afterwards the Authority of the Leet was enlarged by many Statutes.

Steward may  
commit for an  
Affray.

A Steward of a Leet cannot grant Surety of the Peace, unless by Prescription; but he may commit those who make an Affray before him in the Execution of his Office, or bind them to the Peace or Good Behaviour.

He may take a Presentment of an Offence against the Peace.

In every Leet there ought to be a Pillory and Tumbrel, or the Lord of the Leet shall be fined to the King.

Steward ought to give the Stat. of 1 Eliz. c. 17. concerning Fish, in Charge, or forfeits 40s. between the King and Prosecutor.

Steward cannot  
amerce for  
any thing  
but publick  
Nuisances.

He cannot amerce for any thing but publick Nuisances, nor for particular Trespas either against the Lord or any other Person; for if he doth, an Action lies against him. 1 Saund. 135. Raym. 160.

**Letter.** See Libel and Post-Letters.

Liberties and  
Franchises  
what.

### Liberties and Franchises.

**A**RE such which have Return of Writs, and not such which are Counties of themselves; as York, Bristol, &c. not Towns which have Justices of Peace by Charter, or Grant of the King, so that no other Justices meddle there without a concurrent Commission from the King. But a Justice of Peace may execute his Authority within any Liberty in his County, not being a County of it self; and it is good. 2 and 3. P. and M. c. 18.

Franchises

Franchises are sometimes put into the King's Hands, sometimes seized in his Right till Fine made, sometimes fore-judged. 9 Co. 28. 2.

Seized for Default of Answer, for not being at the Cost to sue out a Commission of Gaol-Delivery, for Prisoners whom the Gaoler detains. 9 Co. 96. b. So detaining Prisoners after the Fees paid.

Liberty seized for grand Riot, in Cities and Corporations, fined, as it happened in London, in the Case of the Riot where Dr. Lamb was killed, the City was, upon Information in B. R. fined a Thousand Marks. P. 8. Car. 1.

A Franchise within a Hundred, is chargeable for a Robbery with the Hundred. 27 Eliz. 13.

Franchises sometimes seized into the King's Hands, and sometimes fined; as in Dr. Lamb's Case in London.

## Libellers and Libels.

**A** LIBEL (in this Place) signifies a scandalous Report raised and spread abroad of another, or otherwise unlawfully published.

And this may be either in Writing or without it; if in Writing, the Making a Copy thereof and Delivering that Copy to another, is a Publication; and so is Repeating it to others after a Man hath heard the same read, or reading it to another, knowing it to be a Libel.

If without Writing, then it may be by Pictures or Representations; as to paint a Man like a Fool, or by Sign; as to fix a Gallows, or any other shameful and ignominious Sign at the Door of a Person. 5 Rep. 125.

Authors of Libels may be punished by Indictment, and fin'd, or by an Action on the Case, where the Words will bear an Action. And if it be against a private Person, it ought to be burn'd or carried to a Magistrate; and if it be against any Person in Office, or Magistracy, and much more if it be against the Government, it ought to be delivered to some Magistrate, that the Offender may be found and punished. 5 Rep. 59.

A Man may be indicted at the Sessions for writing a scandalous Letter concerning a private Person, as it tends to the Breach of the Peace. And if a scandalous Letter be directed to the Party himself, and not to a third Person; this tends to the Breach of

What is a Libel.

In Writing.

Or without Writing.

Authors of Libels, how to be punished.

of the Peace, and may be punished by Indictment or Information; but no Action on the Case will lie, because 'tis no Publication. 1 *Leo.* 139. *Morr* 627. 821. *Hob.* 62.

Libel found in a House, Master not to be punished.

If a Libel be found in an House, the Master or Owner thereof cannot be punished in an Information for composing, printing, or publishing it; but it is said he may be indicted for having it, and not delivering the same to a Magistrate. 1 *Vent.* 31.

To libel any private Person is an Offence; but to libel a Magistrate is a greater; but the greatest of all is to libel the Government. 1 *Leo.* 287.

Case of Libelling private Persons.

As to private Persons, if a Man shall write libellous Letters, and disperse them in the Fields, without sending any to the Person himself, this is punishable as a Libel, tho' the Matter contained in them be true, as it is not to be justified in an Information. But if an Action on the Case be commenced for printing and publishing a false and malicious Libel, the Defendant may justify that it was true. *Moor.* 627. *Hob.* 120. *Hob.* 153. *Hardes* 470.

Case of Libelling Magistrates.

As to Persons in Office: A Man affirmed that my Lord Chancellor Bacon had done Injustice; and spoke other scandalous Words of him; for which he was sentenced to pay 1000*l.* Fine; to ride on a Horse with his Face to the Tail, from the Fleet to Westminster, with his Crime written on his Head; to acknowledge his Offence in all the Courts at Westminster; to stand in the Pillory; and that one of his Ears should be cut off at Westminster, and the other in Cheapside; and so suffer Imprisonment during Life. *Popb.* 135.

Case of Libelling the Government.

Information against the Defendant for causing a scandalous Libel to be framed, printed, and published. Upon Not guilty pleaded, the Evidence was, That upon Search of the Defendant's Lodgings, by a Warrant from a Secretary of State, two of the Libels were there found. Adjudged that tho' the Defendant could give no Account how he came by them, yet this was no Crime within the Information, unless he had maliciously published them. 1 *Vent.* 31.

A Man was indicted for saying that *Campion* was not executed for Treason, but for Religion; and that he was as honest a Man as *Crammer*; but the Jury did not find whether the Words were spoken *Malitiose & Seditiose* and so the Defendant was discharged.

If



If I hear a Libel read, and only laugh at it, however I may seem to approve of it, yet that will not amount to a Publication.

Where one did pronounce, dictate, and repeat the Words, and the other did write them, the Question was, Whether the Writer should be guilty of composing and making the Libel? It was insisted that he should not; for if he should, then every Man who writes a Libel, must make and compose it; but adjudged that he who dictates, and he who writes the Libel, are both guilty; because the Writing shews an Approbation of the Libel dictated; and they are both Makers of it: For all who concur in an unlawful Act, are guilty. 5 Mod. 165.

Indictment for composing, writing, making, and collecting several Libels. In one of which it was contain'd *juxta tenorem & effectum sequenti*. The Defendant was found guilty as to the Writing and Collecting, and not guilty as to the last. Adjudged that the Copying a Libel without Authority, is Writing a Libel: And he who thus writes is a Contriver of the Libel; and when the written Copy of a known Libel is found upon him, it is an Evidence of the Publication of it.

But if such Publication be not publickly known, then the bare having a Copy is no Publication. That there is a Difference between *tenor* and *effectus*; for if this Indictment had been *juxta effectum sequenti*, it had been naught; because the Court is to judge of the very Words, and not of that Construction which is made by the Prosecutor: For the Tenor of a Thing is the Transcript, and imports the Words themselves.

2 Salk. 417. Hob. 62. Het. 4. Moor. 421.

A Man was a Suitor to a rich Widow, and the Defendant wrote a Letter to her, advising her not to marry him, for he was a debauched Person, and had the Pox, and was not worth a Groat; and that he declared if he married her, then he would allow 50*l.* per An. to a Whore. This Letter was conveyed to the Widow, but not subscribed by the Defendant; but upon Evidence it appeared to be his Writing. He was fined 200*l.* at Sessions. Sid. 270. Lev. 139.

One Jeffs libelled my Lord Coke for the Judgment in *Magdalen College Case*, by writing that it was Treason, and he a Traitor, and perjured Judge. This he fixed on the Gate of *Westminster Hall*; for which he was sentenced to stand in the Pillory with a Paper, &c. and to be committed till he made his Submission

Laughing on hearing a Libel read, no Publication. He who dictates, and he who writes the Libel, are both guilty.

Written Copy of a known Libel, an Evidence of the Publication of it.

One for a Libel on a private Person fined 200*l.* at Sessions.

One punished for Libelling Lord C. J. Coke.

So for Libelling Judge Hutton.

Tenor, implies a true Copy.

Two Ways of Describing a written Libel.

Libellers may be bound to their Good Behaviour.

It is all one if Libel be true or false.

Libels cognizable before Justices of Peace.

million in every Court. He was also to find Sureties for his Good Behaviour for Life, and to pay 1000 l. to the King. *Cro. Car.* 175.

A Man, who was angry with Judge Hutton for his Argument about Ship-Money, came into the Court of Common Pleas, sitting the Court, and said, I accuse Mr. Justice Hutton of High Treason, and he was fined 5000 l. and imprisoned during the King's Pleasure. *Sid.* 213.

Information for writing a Libel against the Government, in which there was a Sentence wherein the Word (nor) was mistaken for (not); and this being found Specially, it was adjudged that Tenor implies a true Copy, which this was not; because (nor) differs from (not) both in Grammer and Sense; And no Man can swear that the Libel set forth in the Information is a true Copy of the written Libel.

There are two Ways of Describing a written Libel, either by the Words or Sense. The first is *cujus tenor sequitur*, or *quæ sequuntur in his Anglicanis verbis*, in which the Description is by particular Words; and of which every Word is a Mark: So that if there is any Variance, 'tis fatal. The other Description is by the Sense; and that is to set forth in the Information that the Defendant made a Writing, and therein wrote so and so, translating it into *Latin*, in which 'tis not material to be very exact in the Words, because the Matter is described by the Sense of them.

To say of a Justice of Peace, that he is not fit to talk Law, is indictable and fineable at Sessions, as a Libel. *3 Mod.* 139.

Libellers (it seemeth) may be bound to their Good Behaviour, as Disturbers of the Peace, whether they be Contrivers, Procurers, or Publishers of the Libels; for such Libelling and Defamation tendeth to the Raising of Quarrels and Effusion of Blood, and occasions Breaches of the Peace. *Dalt.* 294. *9 Co.* 59. b.

So if one, that hath heard it read, repeat any Part or read it to another knowingly. *Ibid.*

So by a scandalous Letter subscribed by his Name, being full of slanderous Matter. *12 Co.* 35.

And it is not material whether the Libel be true or false, the Party scandalized living or dead, of good or ill Name. *Ibid.*

S. published a libellous Letter, scandalous to M. before a Woman M. intended to marry; for which he was indicted before the Justices of Peace at Guild-Hall,

Hall, London, and Judgment against him. S. brought a Writ of Error, and two Errors were assigned. 1. That it was but a private Letter and not punishable by Indictment. 2. If it be, yet not before Justices of Peace, but before Commissioners of Oyer and Terminer, who have Words in their Commission *de propagationibus verborum*. Tho' Tysden, Kelynge, and Wyndham, held that he was indictable, because it tended to a Breach of the Peace, and before Justices of Peace, as well as Justices of Oyer and Terminer. Mich. 16. Car. 2. B. R. The King against Summers and Summers. 1 Sid. 270.

S. writ a scandalous Letter to Hatton Rich, Brother to the Earl of Warwick, who was indebted to him 300*l.* after Rich had obtained a Protection, and at last taken the King's Bench Prison. In which Letter were these Words, [That if he had any Honesty, Civility, Sobriety, or Humanity, he would not deal so by him; and that he would one Day be damn'd and be in Hell for the Cheating,] or Words to the like Effect; and quoted several Places of Scripture to make good the Allegations. The Court of B. R. judged this Letter Scandalous, being provokative, and tending to the Breach of the Peace; and S. was fined 40 Marks. Mich. 22. Car. 2. B. R. Raym. Rep. 28. Rex versus Saunders.

Case of a Libel against Earl of Warwick's Brother.

### Indictment for a Libel against a Justice of Peace.

Essex. H. J. W. R., sc. quod cum 4 die Julii Anno Regni, &c. apud C. in Com' pzed' Gaole dicti Dom' Regis ad generalem Quarterial' Session' pacis tent' adtunc & ibidem coram A. B. ac D. E. Mil' & Bar' & aliis sociis suis Justic' dicti D'ni Regis ad pacem in Com' pzed' conserband' necnon ad diversas felonias transgressiones & alia malefacta in eodem perpetrat' audiend' & terminand' assign' de quibusdam prisonatis in eadem gaola adtunc & ibid. indicat' fuit quidam tamen C. D. nuper de L. in Com' pzed' Beoman premissorum non ignarus sed machinans & intendens pzed' Justic' in magnu' scandalu' & infamiam inducere postea scil' primo die Augusti Anno Regni, &c. apud L. pzed' in Com' pzed' maliciose quendam famosum libellum (Anglice vocat' a Libel) in scriptis ad defamation' Justic' pzed' edidit & publicabit continen' inter alia

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## Libraries Parochial.

hec falsa & scandalosa verba sequen<sup>r</sup> scilicet—  
ubi rebera, &c. contra pacem digi D'ni Regis Cu-  
ron<sup>r</sup> & dignitat<sup>r</sup> suas necnon contra formam \* Sta-  
tut<sup>r</sup> in huiusmodi casu edit<sup>r</sup> & probis<sup>r</sup>.

\* 1 Will. c. 24.

## Libraries Parochial.

Several Parochial Libraries having been erected by charitable Contributions, Care has been taken by a late Act of Parliament of 7th of Q. Anne, cap. 14. to preserve the same.

Incumbent to enter into Bond.

By which Act every Incumbent, before he shall be permitted to use such Library, must enter into a Bond, to be approved by the proper Ordinary, conditioned for the Preservation of the Library; and to observe the Rules and Orders belonging to the same.

If a Book taken away, Ordinary may bring Action.

And if any Book shall be taken away or detained, the Incumbent, or any other Person, may bring an Action of *Trover* in the Name of the proper Ordinary, and shall recover treble Damages with full Costs; which Damages shall be applied to the Use of the Library.

May enquire in his Visitation.

The said Ordinary, or his Commissary, or his Official, or the Archdeacon, or his Official, or Surrogate, (if the said Archdeacon is not Incumbent of the Place where the Library is) may enquire in their Visitations, of the State of such Library, and the Ordinary may appoint any Person to view it.

Incumbent must make a Catalogue within six Months.

And where a Library is appropriated to the Use of the Incumbent, he must within six Months after his Induction, make a new Catalogue of all Books in the Library, and must sign the same, acknowledging the Possession of such Books; which Catalogue he must deliver to the proper Ordinary, within the Time aforesaid.

On any Vacancy, Library must be lock'd up.

And upon any Vacancy, the Library must be lock'd up by the Churchwardens, or by a Person appointed by the proper Ordinary, or by the Archdeacon; unless the Place where such Library is kept shall be used for the Vestry, or otherwise for Dispatch of Business; and after that is done, the Place is to be locked up.

A Book to be kept for Benefactions

And likewise a Book shall be kept in the Library for the entering of all Benefactions, which the Incumbent is to see fairly entred; and the Ordinary is to make proper Rules and Orders, but not contrary to the Order of the Donor, which shall be entred in the said Book.

None

None of the Books shall be alienable, without the Consent of the Ordinary; and then only when there is a Duplicate of such Book. And if any Book is taken away or lost, a Justice of Peace may grant his Warrant to search for the same; and if 'tis found, the Justice shall immediately order it to be restored to the said Library.

The Books not alienable without Consent, of, &c.

A Warrant to search, &c.

To the Constable, &c.

Essex. ff. **W** Hereas Complaint hath been made before me, by A. B. Rector of C. in the said County, that a Book called, Hooker's Ecclesiastical Polity, was lately taken out of the Library erected in the Parish of C. aforesaid, and appropriated to the Use of the Minister there: These are therefore to require you to search diligently in all Places where you and the said A. B. shall suspect the same to be: And in case the same shall be found, that then you immediately cause the same to be restored to the said Library, &c.

Licences.

**L** icences for Badgers, Drovers, &c. are to be granted in open Quarter-Sessions, and be dated the Day of the Sessions, and must be sealed by three Justices of the Peace (one to be of the *Quorum*) under Penalty of 5*l*. And the Sessions must take Bond that the Person licensed shall not forestal. The Recognizance costs 4*d*. and the License 1*s*. which shall not endure above a Year, unless the same be yearly renewed. 3 & 4 Edw. 6. c. 21. 5 & 6 Edw. 6. c. 14. 5 Eliz. c. 12. 39 Eliz. c. 4. 1 Jac. 1. c. 25.

Licences granted in open Q. Sessions.

A Woman can have no Licence; and those Men who have Licence, must sell their Goods themselves, and not by their Servants. And without a Licence Persons must not buy Corn but in the Markets.

Badgers must sell their Goods themselves.

Two Justices may Licence poor diseased Persons to travel to the Bath for Remedies, so as they are provided of Relief in their Travel, and do not beg. 39 Eliz. c. 4. Dalt. 209. 1 Jac. 1. c. 25. For I do not find that any one or more Justices of Peace may or can in any Case licence a Man to beg or ask Relief at all, but only may make a Testimonial or Licence in the two following Cases; viz. 1. to such as suffer Shipwrack; and 2. to Soldiers or Mariners coming from the Seas, to pass from Place to Place. And in these two Cases only, the Law tolerateth them to ask and receive necessary Relief, as aforesaid.

Two Justices may license poor diseased Persons to go to Bath, but not to beg.

## Licences.

Likewise poor Prisoners delivered out of Gaols,  
may in no wise beg, by 39 Eliz. c. 4. Dalt. 209.

### A Licence for a Badger of Corn.

5 & 6 Ed. 6.  
c. 14. 13 Eliz.  
c. 25. made  
perpetual.  
5 El. cap. 12.  
21 Ja. 1. c. 22.  
Three Justices,  
1 Quorum, not  
for above a  
Year.

Essex, ff. **A**T the General Quarter-Sessions of the Peace holden at C. in the County aforesaid, this present Day A. B. of H. in the County aforesaid, is admitted, licensed and appointed by the Justices of Peace of the said County to be a common Badger, Lader, Kidder, Carrier, Buyer or Transporter of all Manner of Corn or Grain in any Market or Fair within the Realm of England, and the same so bought to convert to Meal, and the same to carry to the City of L. or the Suburbs of the same, or to any other Market or Fair, so that he use the same according to the Tenor and true Meaning of the Statutes in that Case made and provided against Forestallers, Regrators and Ingrossers, and not otherwise. The same Licence to have Continuance from the Day of the Date hereof, until the next General Sessions of the Peace after the Feast of St. Michael next coming, to be holden at C. aforesaid. In Witness whereof we have hereunto set our Hands and Seals this second Day of November 1726.

### A Licence for a sick Person to travel to the Bath, &c.

**T**O all People, &c. A. B. and C. D. Esqrs; two of his Majesty's Justices of Peace for the County of, &c. send Greeting: Whereas E. F. of, &c. the Bearer hereof being reduced to great Poverty and Necessity, and now labouring under a dangerous and bad Disease which he is informed the medicinal Waters of the Bath may Cure, hath made his humble Request to us for a Testimonial or Licence for his travelling safe to the City of Bath in the County of Somerset: Know ye therefore that we the said A. B. and C. D. as far as in us lies, have licensed the said E. F. to travel and pass the direct Way from, &c. to the said City of Bath; so that his Journey be not of longer Continuance than ten Days from the Date hereof: And we do hereby desire all Persons, to whom these Presents shall be shewn, not to molest or trouble the said E. F. in his Journey, but to let him pass unmolested. In Witness, &c.

Sessions may inquire of, and determine the Licences for Badgers, &c. which may be granted in open Sessions. A Licence as before may be granted to Drovers of Cattle, to buy and sell again by the same Statute.

A Pre-



## Linen Cloth:

21

A Presentment, Bill or Information against Drovers or Badgers, on 5 Eliz. c. 12. on Examination of two Witnesses, shall be as if he had been indicted by twelve. *Crompt. 125. Lamb. cap. 19. pag. 601. 5 Eliz. cap. 12.*

## Linen Cloth.

**I**F any Person shall use, or cause to be used any Deceit by stretching, or otherwise impairing Linen Cloth, so as to damage the Cloth, he shall forfeit the Cloth, and suffer one Month's Imprisonment at least, and shall pay such Fine as three Justices (*Quor. 1.*) shall assess, who shall have Power to hear and deterter Offences at Quarter-Sessions. 1 Eliz. c. 12.

Linen Cloth made in *Scotland*, to be of well-sorted, Yarn equally wrought, and fine, from one End of the Piece to the other, and made by the Standard Yard-wand; and all St. *Johnston's*, and other plain, brown and green Cloth made for whitening, shall be one Yard and Nail, or three Quarters and a Nail broad, that when whited, it may be a full Yard, or full three Quarters broad; and the whole Piece in Length 84 Yards, half Piece 42 Yards, &c. that so when whited, it may be 80, or 40 Yards, &c. And all other Sorts of plain Cloth, a full Yard, or full three Quarters in Breadth, and in Length 40 Yards the Piece, 20 Yards half Piece, &c. See Measures appointed for Linen Checks, striped Linen Neckcloths, Ticken, &c. Any Person making Linen Cloth in *Scotland* contrary to this Act, being convicted thereof by Oath of Overseer or Searcher, or two Witnesses, shall forfeit for every Inch less than Measure in Breadth, and every Yard less in Length, 5 s. and for every Piece not made of well-sorted Yarn, &c. 5 s. Any Person buying, or exposing to Sale Linen Cloth not made, &c. according to this Statute, shall forfeit for each Piece 5 s. Conviction in six Months before one Justice, or chief Magistrate of this City, &c. On Refusal, Distress and Sale; for Want, to be sent to the House of Correction so long as Justice shall think fit, not exceeding twelve Months; Penalties to the Poor and Informer. Any Person counterfeiting a Stamp, forfeits 50 l. or a Year's Imprisonment. Selling Linen Cloth, &c. before stamped, or exporting it before stamped,

10 Ann. c. 21.  
& 12 Ann.  
c. 20.

## Lodgers. Lord's Day, &c.

stamped, such Person shall forfeit 5*s*. a Piece for every Piece. No Stamp-Master for himself, or any other, shall buy, or dispose of Linen Cloth, or stamp any, not made as the Act directs, on Forfeiture of 5*s*. a Piece, and to lose his Office for the Future. Making use of Lime, or Pidgeons Dung for whitening or bleaching Linen Cloth in *Scotland*, forfeit 20*s*. a Piece; on Conviction of two Witnesses, or Confession; to be levied and disposed, as aforesaid.

## Lodgers.

Lodgers not to  
Imbezil Goods  
out of their  
Lodgings.

**I**F any Lodgers shall take away, with an Intent to steal, imbezil, or purloin, any Chartel, Bedding or Furniture, which by Contract or Agreement, he or they are to use with such Lodging; it shall be adjudged Larceny and Felony; and the Offender shall suffer as in case of Felony. 3 & 4 *W. & M. cap. 9.* continued, 4 & 5 *W. & M. cap. 24.* made perpetual, 6 & 7 *W. 3. cap. 14. Vide Felony.*

**Loom-Lace.** See Bone-Lace.

**Low-bells, Lurcher.** See Dogs.

## Lord's Day, or Sunday.

The seventh  
Day of the  
Week changed  
into the first.

**I**T is very meet and reasonable, that some Part of our Time in this World should be set apart to be employed in taking Care for the next; God in the 4th Commandment to the *Jews*, appointed every seventh Day to be the Sabbath, or the Day of Rest both for Man and Beast, which was kept by the *Jews* with so much Superstition, that it often exposed them to very great and grievous Calamities. After the Coming of our Saviour, who was Lord of the Sabbath, the Sabbath was changed, contrary to the express Letter of the fourth Commandment, from the Seventh, to the first Day of the Week, in Commemoration of his Ascension, as the *Jewish* Sabbath had been in Memory of the Creation. How this Alteration was made does,

no

no where (that I know of) appear in Scripture, tho' it is pretty plain that it was religiously observed both by the Apostles themselves, and the Primitive Christians, almost from the very Time of our Lord's Resurrection; and continues still to be kept holy by all who profess Faith in Christ, except a few Judaizing Christians who place more Religion in keeping holy the Sabbath-Day, than in doing Works of Justice and Mercy.

However, as it is objected to us by Foreigners, that there is no Place where there is so little outward Profession of Religion as in *England*; so must it at the same Time be confessed, that the Lord's Day is no where so strictly and nicely kept as in *Great Britain*; and to that End, several Acts of Parliament have been made for the stricter Observation thereof, which may be divided under three Heads.

1. For repairing to Divine Service.
2. Prohibiting the Exercise of any Trade or Calling.
3. Prohibiting the Profaning the Lord's Day by Sports and Pastimes.

1<sup>st</sup>, Every one on this Day (not having a reasonable Excuse) must diligently resort to some publick Place where the Service of God is performed, and such as repair not to Church, &c. on *Sundays* and Holy-days, being convicted by one Witness, forfeit each of them 12 d. for every Default, to be levied by Distress; and for want of Distress, to be committed till the same be paid. 1 *Eliz. cap. 2.* 23 *Eliz. cap. 6.* 3 *Fa. 1. cap. 4.* 29 *Eliz. cap. 6.* 35 *Eliz. cap. 1.* 13 & 13 *C. 2. cap. 4.*

Every one who absents from Church for a Month, forfeits 20 l. and if he be absenting for twelve Months or more, 20 l. for every Month, and Forfeiture of two Parts in three of his or her Estate.

N. B. These Acts extend not now to Protestant Dissenters qualified by Stat. 1 *W. & M. cap. 18.*

If any one come not to the Sacrament of the Lord's Supper once a Year, his or her Name and Surname must be presented; 40 s. Reward to such as present them. 3 *Fa. 1. cap. 4.*

None shall speak, or do any Thing, in Contempt of the most Holy Sacrament, on Penalty, upon his Conviction by the Oaths of two lawful Witnesses, to be bound

Not coming to the Sacrament, must be presented.

Must not do any Thing in Contempt of the Sacrament.



None to disturb a lawful Preacher.

bound over by three Justices (*Quorum unus*.) &c. and prosecuted for the same. 1 Ed. 6. cap. 1.

Whosoever shall disturb any lawful Preacher in his open Sermon, or be procuring or abetting thereunto, or shall rescue any such Offender, shall be committed by any Justice of the County to safe Custody; and within six Days the said committing Justice, with one other Justice, (if the Offender upon Examination shall be found guilty) shall commit him to Gaol, without Bail or Mainprize for three Months, and further to the next Quarter-Sessions. 1 M. cap. 3.

Shoe-maker not to sell.

2dly, Shoe-maker putting Boots or Shoes to Sale, forfeits three Shillings and four Pence, and the Goods. 1 Ja. 1. cap. 22. Sect. 28.

Carriers, &c. not to travel.

Carriers, Drovers, Waggoners travelling on that Day, forfeit Twenty Shillings for every Offence, 3 Car. 1. cap. 1.

Butchers not to sell on the Lord's Day.

Butchers killing or selling, or causing to be killed or sold, or privy, or consenting to kill or sell Meat on that Day, forfeit 6 s. 8 d. for every Offence. 3 Car. 1. cap. 1.

Proof must be by View, Confession of the Party, or two Witnesses upon Oath. Prosecution within six Months after the Offence.

These Forfeitures are recoverable by Distress on a Warrant, or by Bill, or Information, in Sessions, to the Use of the Poor where taken. But tho' the Driving is thro' several Parishes; yet there shall be but one Forfeiture for one Day.

29 Car. 2. None above 14 to do any Work on the Lord's Day.

By 29 Car. 2. cap. 7. The Contidion is made more easy, and by this Statute publick and private Duties of Piety are enjoyned, all worldly Business is prohibited; and if any Person of the Age of 14 Years, shall on the Lord's Day do any Work or Labour, (except Works of Necessity and Charity) he shall forfeit 5 s. for every Offence. 29 Car. 2. cap. 7.

None to sell any Goods.

Sale on a Sunday is not good. 12 Ed. 4. 1 Dal. 138, 139. No Person shall cry, shew forth, or put to Sale any Wares, Fruit, Goods, &c. (except Milk, &c. before nine in the Morning, or after four in the Afternoon) on Pain to forfeit the same. *Ibidem*.

Or travel without Licence.

3dly, No Drover, Horse-Courser, Waggoner, Butcher, Higler, or any their Servants, shall travel, or come to their Inns on the Lord's Day, or forfeit 20 s. for every Offence. *Ibidem*.

No Person shall use, or travel upon the Lord's Day, with any Boat, Wherry, Lighter or Barge, except al-

allowed by one Justice of the Peace so to do, or forfeit 5 s. for every Offence. *Ibidem.*

Conviction must be before any Justice of the County, &c. or chief Officer, by View, Confession, or Proof by one Witness; who shall give Warrant to the Constables, &c. to seize and sell the Goods shewed, &c. and to levy the Forfeiture by Distress, or for Want thereof, put the Party into the Stocks for two Hours. *Ibidem.*

The Justices, &c. may reward the Informer out of the Forfeitures, not exceeding one third Part. *Ibidem.*

Justices may reward Informer.

This Act extends not to Dressing Meat in Inns, Cooks Shops, or Victualling-Houses. *Ibid. Sect. 3.*

May dress Meat in Inns, &c.  
Prosecution in ten Days.

Every Person to be impeached hereupon, must be presented within ten Days after the Offence. *Ibidem.*

If any Person travelling on a Sunday, be robbed, the Hundred shall not be chargeable to him; but in Default of fresh Suit, they shall be chargeable to the King, for as much as might have been recovered against them by him. *Ibidem.*

If any Person on the Sunday serve or execute, or cause, &c. any Writ, Process, Warrant, Order, Judgment, &c. (except in case of Treason, Felony, or Breach of the Peace) such Service shall be void, and the Party liable to answer Damages, as if no Writ had ever been made. *Ibidem.*

No Process to be served on the Lord's Day.

Commissioners for regulating and licensing Hackney-Coaches, may appoint 175 of those allowed in London, to stand, ply, and drive on the Lord's Day within the Bills of Mortality; so as the whole Number of 700 may be employed successively: Others not so appointed, forfeit Five Pounds, if they ply, stand, or drive on the Lord's Day. 5 & 6 W. & M. 9 Ann. cap. 23. 1 Geo. cap. 17.

Some Hackney-Coachmen may ply.

But this Clause is altered by a Clause in Stat. 9 Ann. c. 23. whereby all the Hackney-Coachmen are allowed to ply on the Lord's Day notwithstanding the above-written Clause, or any Thing contained in Stat. 29 Car. 2.

And by another Statute of 11 & 12 W. 3. cap. 21. Forty Watermen are allowed to ply on every Lord's Day between *Embankment* and *Lime House* for carrying Passengers cross the River of *Thames*, at a Penny each. Also the Watermen of *St. Margaret's Westminster*, are allowed by the same Statute to ply cross the *Thames* from *Westminster Bridge* to *Stangate*, and from the

Some Watermen may ply.

# Lord's Day.

the Horse-Ferry to Lambeth-Bridge, on the Lord's Day; the Monies earned thereby being applied to the Poor decay'd Watermen and their Widows of the said Parish, for which the Watermen so working shall account before any two Justices of the said Parish.

None to meet  
to use Sports  
or Pastimes on  
the Lord's  
Day.

If any meet together out of their own Parish for any Sports or Pastimes, they forfeit 3 s. 4 d. each.

1 Car. 1. cap. 1.

Prosecution must be within a Month, &c.

Proof by one Witness before one Justice, or Confession of the Party.

Forfeiture is for the Poor of the Parish where the Offence is committed, and to be levied by Distress on a Warrant, &c. and in Default thereof, the Offender is to be put in the Stocks for three Hours.

All the Laws for frequenting Divine Service on the Lord's Day are still in Force, notwithstanding the Statute of 1 W. & M. cap. 18. unless Persons go to some Congregations tolerated by that Act.

Constable for arresting (for good Behaviour) on that Day in the Church-yard, coming from Church, fined.

1 Cro. 602. *Prinson's Case.* Godbolt Pl. 397.

**A Warrant to levy 5 s. on those who do not come to Church, &c.**

To the Constable or Churchwardens of, &c.

29 Car. 2. c. 7.  
One Justice.  
One Witness  
on Oath.  
Prosecution  
within ten  
Days.

**W** Hereas it hath been duly proved before me upon Oath, that A. B. C. D. and E. F. all of the Parish of, &c. Labourers, and all of them being of the Age of Fourteen Years and upwards, that they, and each of them did neglect to apply themselves to the Observation of the Lord's Day, being the 19th Day of this Instant November; neglecting also to exercise themselves on the Lord's Day aforesaid, in the Duties of Piety and Religion publicly, either in the Parish-Church of, &c. or in any other Assembly of Religious Worship; by reason whereof they, and each of them, have forfeited the Sum of 5 s. for the Use of the Poor of the said Parish: These are therefore to require you forthwith to levy the said respective Sums of 5 s. on the several Goods and Chattels of the Offenders aforesaid respectively, by Distress and Sale thereof, rendering to them severally the Overplus, (if any shall be) and that you employ the same towards the Relief of the Poor aforesaid, according to the Statute in that Case made and provided; but in Case of Inability of any of the said Offenders, to pay the said Penalties, or in Default



of Distress to be had and taken in his, or their Goods, that then you cause such Persons to be set in the Stocks for the Space of two Hours: And hereof fail not, &c.

To levy 5 s. on those who use a Trade, or any worldly Labour, on that Day.

To the Constable and Churchwardens, &c.

Essex, ff. **W** Hereas it hath been duly proved before me on 29 Car. 2. c. 7.  
Oath, that A. B. and C. D. both of the One Justice.  
Parish of, &c. Barbers, (or as the Case is) and being one Witness  
of the Age of Fourteen Years and upwards, did exercise the on Oath.  
Work of their ordinary Callings or Trades at, &c. on the Prosecution  
17th Day of this Instant December, being the Lord's Day; within ten  
by Reason whereof each of them hath forfeited the Sum of Days after the  
5 s. for the Use of the Poor of the said Parish: These are Offence.  
therefore, &c. (as in the former Warrant.)

To levy the Penalty on a Butcher killing Meat on that Day.

To the Constables, &c.

Essex, ff. **W** Hereas it hath been duly proved before me, 3 Car. 1. c. 1  
that A. B. of, &c. Butcher, did on Sunday the 9th Day of August last past, in the Parish of, &c. One Justice on  
kill (or sell, as the Case is) Victuals, viz. one Leg of Veal, View, Confes-  
contrary to the Statute in that Case made and provided; where- sion or Oath  
by he hath forfeited 6 s. 8 d. to the Use of the Poor of the said of one Wit-  
Parish of, &c. These are therefore, &c. to command you nefs; Prosecu-  
forthwith to levy the said of 6 s. 8 d. on the Goods and Chat- tion must be  
tels of the said A. B. by Distress and Sale thereof, rendering within one  
to him the Overplus, and that you see it employed to the Use Month after  
of your said Parish, as by Law it ought. Given, &c. the Offence.

A Warrant to levy the Penalty for exposing Goods to Sale, &c.

To the Constable, &c.

Essex, ff. **W** Hereas it hath been duly proved before me, 29 Car. 2. c. 7.  
that A. B. of, &c. did on Sunday the One Justice,  
11th Day of July last past, expose Apples, &c. to Sale at, one Witness;  
&c. contrary to the Law in that Case made and provided; Prosecution  
whereby within ten  
Days; forfeits  
the Goods, and  
5 s.

## Lord's Day.

whereby he hath forfeited the said Goods to the Use of the Poor of the said Parish, &c. These are therefore to require you forthwith to seize the said Goods so put to Sale, as aforesaid, and that you sell the same, and employ the Money arising by such Sale to the Use of the Poor of your said Parish, as by Law it ought: And hereof fail not at your Peril. Given, &c.

But Crying and Selling Milk, and Works of Necessity and Charity are excepted, and Mackerel are also allowed to be sold by a later Statute.

### A Warrant to levy the Penalty on Persons travelling on the Lord's Day.

To the Constable, &c.

3 Car. 1. c. 1.  
One Justice  
(ut prius) but  
by the Oath of  
two Witnesses.  
Prosecution  
must be with-  
in 6 Months,  
but by 29 Car.  
2. c. 7. ten  
Days.

Essex, ff. **W** Hereas it hath been duly proved before me, that A. B. of D. &c. being a common Carrier (or as the Case is) did the 6th Day of July last past, being the Lord's Day, travel with his Horses into, and through your said Parish of D. contrary to the Statute in that Case made and provided; by Reason whereof he hath forfeited 20 s. to the Use of the Poor of the said Parish: These are therefore, &c. to command you forthwith to levy the said Sum of 20 s. on the Goods and Chattels of the said A. B. by Distress and Sale thereof, rendering to him the Overplus, and that you see it employed to the Use of your said Parish, as by Law it ought. Given, &c.

### A Warrant to levy the Penalty on those who use Pastimes on that Day.

To the Constables, &c.

3 Car. 1. c. 1.  
One Justice up-  
on View, Con-  
fession, or Oath  
of one Wit-  
ness; and Pro-  
secution must  
be within a  
Month after  
the Offence.

Essex, ff. **W** Hereas A. B. of, &c. C. D. of, &c. and E. F. of, &c. have been lawfully convicted before me, that they and each of them did on the 9th Day of July last past, being the Lord's Day, meet and were present with a Concourse of other People, out of their own Parishes, for Sports and Pastimes, viz. to play at Foot-Ball (or as the Case is) contrary to the Laws in that Case made and provided; by Reason whereof each of the Persons before-mentioned, hath forfeited 3 s. 4. for the Use of the Poor of the Parish: These are therefore in his Majestys Name to command you forthwith to levy the respective Sums of

3 s. 4 d. on the respective Goods and Chattels of the several Offenders before-mentioned, by Distress and Sale thereof, rendering to them the Overplus, if any; and in case no such Distress can be had, that then you cause the said Person or Persons wanting such Distress to be set publicly in the Stocks for the Space of three Hours. Given, &c.

A Licence to travel on Horseback on the Lord's Day.

To all Mayors, Bailiffs, Constables, Churchwardens, Overseers of the Poor, and other his Majesty's Officers of the Peace, whom these Presents do or may concern.

Midd. ff. **F**Orasmuch as J. S. Gent. the Beaver hereof, 29 Car. 2. c. 7. came before me L. M. Knt. one of his Majesty's Justice of the Peace for this County, and hath this Day given me such reasonable Satisfaction, as is required by the Statute in that Behalf made, of his urgent Occasion to travel on Horseback upon the next Lord's Day, from his House in, &c. in the Parish of, &c. in the County aforesaid, to the Town of C. in the County of D. These are therefore to certify, that I have, according to the Directions of the Statute aforesaid, given free Licence and Liberty to the said J. S. to undertake and perform his said Journey on the next Lord's Day, as aforesaid: Hereby requiring you the said Mayors, Bailiffs, Constables, and other his Majesty's Officers of the Peace above-mentioned, to permit and suffer the said J. S. quietly and peaceably to travel on that Day through your several and respective Jurisdictions, Liberties and Precincts, at his Discretion, without any Molestation or Disturbance whatsoever. Given, &c.

A Licence to travel by Water on the Lord's Day.

To all Mayors, &c. as above.

Midd. ff. **F**Orasmuch as J. S. Esq; &c. (as next above 29 Car. 2. c. 7. to) of his urgent Occasions to travel by Water on the next Lord's Day to Richmond in the County of Surrey, and to use and employ one or more Watermen with a Boat or Wherry in his said Journey: These are therefore to certify, that I have (according, &c.) given free Licence, &c. to the said J. S. to undertake, &c. on &c. Hereby requiring you the said



## Lotteries.

*said Mayors, &c. to permit, &c. the said J. S. quietly, &c. to perform his said Journey on the next Lord's Day, as aforesaid, and to use and employ any Boat or Wherry with Watermen, at his Discretion, without any Molestation or Disturbance whatsoever. Given, &c.*

## Lotteries, &c.

8 Geo. cap. 2.  
If any Person  
erect any Lot-  
tery, &c. for-  
feits 500 l.  
and to be com-  
mitted by two  
Justices with  
out Bail, for a  
whole Year.

**E**Very Person who shall erect, set up, continue, or keep any Office or Place under the Denomination of Sales of Houses, Lands, Advowsons, Presentations to Livings, Plate, Jewels, Ships, Goods, or other Things for the Improvements of small Sums of Money; or shall sell, or expose to Sale any Houses, &c. by way of Lottery, or by Lots, Tickets, Numbers, or Figures; or who shall make, print, advertise, or publish, or cause to be made, advertised or published Proposals or Schemes, for advancing small Sums of Money by several Persons, amounting in the whole to large Sums, to be divided among them by the Chances of the Prizes in some publick Lottery or Lotteries; or shall deliver out, or cause, or procure to be delivered out, Tickets to Persons advancing such Sums to intitle them to a Share of the Money so advanced, according to such Proposals or Schemes; or shall make print, or publish, or cause to be made, &c. any Proposal or Scheme of the like Nature under any Denomination, or Title whatsoever; and shall be thereof convicted on the Oath of one or more credible Witnesses, by two or more Justices of the Peace of the County, &c. where such Offence shall be committed, or the Offender found; the Person so convicted, shall for every Offence (over and above any former Penalties inflicted by any Act of Parliament made against private and unlawful Lotteries) forfeit 500 l. one third to the Crown, one other third to the Informer, and the remaining third to the Poor of the Parish where the Offence shall be committed, to be levied by Distress and Sale of the Offender's Goods, by Warrant of the Justices before whom convicted; and shall also for every Offence be committed by the said Justices to the County Gaol, without Bail or Mainprize, for one whole Year, and from thence till the said 500 l. be fully paid. But Persons aggrieved by the Determination of such Justices, may appeal to the next Quarter-

## Lunaticks.

31

Quarter-Sessions for the County, &c. whose Judgment shall be final.

## Lunaticks.

**T**WO Justices may, by their Warrant directed to the Constables, Churchwardens, and Overseers of the Poor of the Parish, or Place where Lunaticks or Mad Persons shall be found, cause such Lunaticks and Persons furiously Mad to be locked up, and if necessary, chained, &c. (but not whipped) during their Lunacy, &c. and charge their Estate (if any) for their Maintenance; or (if none) provided for as the Poor of the Parish. 12 Ann. cap. 23.

Lunaticks may be taken up and chained, but not whipped.

**Lustrings.** See Alamodes.

## Maihem.

**M**AIHEM is a corporal Hurt, whereby the Use of any Member is lost, or any Deformity occasion'd; as if a Limb or Joint is so wounded that the Use thereof is lost or impaired, or an Eye put out, or a Tooth broke, &c. But Staundf, p. 39. tells us it must be a Fore-tooth broken; for if the Grinders, or Check-Teeth are broken, or even beat out, he says 'tis not a Maihem, *quia latent & non inducunt corporis deformitatem*.

Maihem what.

But my Lord Coke tells us, that Castration (*quavis latet*) is a Maihem, and cites a Case to prove it, viz. *H. Hull indictatus fuit de Maibemio eo quod abscidit virilia Johannis Monachi*, whom he caught in Adultery with his Wife. But they tell you that cutting off an Ear is no Maihem, *quia latet*.

Castration is a Maihem.

For this Offence an Indictment will lye at the Sessions; and they might set a Fine for it: But the Justices upon View of the Person maimed, cannot increase the Fine, as the Court of B. R. may do.

Sessions cannot increase the Fine.

The Judgment upon a Conviction on an Indictment is a Fine; and upon an Action of Trespass, Damages, &c. and therefore a Recovery in Trespass is a good Bar in an Appeal of Maihem.

In

Moor 668.  
Leon. 318.  
4 Rep. 45.  
5 H. 4. c. 5.

In an Appeal of Maihem, Defendant pleaded in Bar, that the Appellant had recovered two Hundred Pounds against him, in an Action of Assault, &c. and averred it was for the same Offence; and this was held a good Plea.

Coventry's  
Act.

It is now made Felony without Benefit of Clergy in any, together with all their Counsellors, Aiders, and Abettors, designedly and maliciously to cut off and disable the Tongue, put out the Eye, slit or cut the Nose, or cut off or disable any Limb or Member, with an Intent to maim or disfigure. 22 & 23 Car. 2. c. 1.

Felony to  
wound a Privy  
Counsellor.

By a Statute made 9 Anna c. 16. Any Person unlawfully attempting to kill, or who shall unlawfully strike, assault, or wound a Privy Counsellor, in the Execution of his Office, shall suffer as a Felon without Benefit of Clergy.

### An Indictment for Maihem.

Essex. ss. **J** W. R., &c. quod nono die Julii Anno Reg' &c. A. B. de L. in Com' pzed' Gen' bi & armis apud L. pzed' in & super quendam M. N. adtunc & ibid. in pace dicti D'ni Regis existent' insultu' fecit ac cum quodam gladio districto (or as the Case is) ad valentiam quinque solidorum quem dictus A. B. tunc & ibid. in manu sua dextra tenuit pefat' M. N. maliciose & illicite percussit ac dextram pollicem pzed' M. N. adtunc & ibid. amputabit & sic Jur' pzed' super sacram suum dicunt quod pzed' A. B. adtunc & ibid. eundem M. N. nequiter & \* felonice Maihemiabit ad grave nocumentum ipsius M. N. ac contra pacem dicti D'ni Regis Cozon' & Dignitat' suas.

\* This Word is  
requisite, it be-  
ing Felony at  
Common Law.  
3 Inst. 18.  
2 Cro. 101.

### Maintenance.

Moor 562, 815,  
816.  
What is Main-  
tenance.

**M**aintenance is where any Man giveth or delivereth to another, who is Plaintiff or Defendant in any Action, any thing to support his Cause, *pendente lite*, or else by Word or Writing, upholds or maintains Quarrels and Suits (not being a Party therein) to the Disturbance of common Right.

Main-



Maintainers of Quarrells, and Embracers of Jurors are to be imprison'd, and bound to the Good Behaviour. 33 H. 8. c. 10. 37 H. 8. c. 7. Lamb. 440.

To maintain one of the Parties in any Suit in a Court of Justice, is Maintenance; but it must be *pendente placito*; for if Money be given before the Suit begun, it is not Maintenance. 3 H. 6. fol. 53.

When the Maintainer is to have Part of the Land or Debt when recovered, 'tis Champerty; but where he is to have no Part of it, 'tis Maintenance; when he laboureth for Witnesses either to appear, or by instructing them, or threatening, &c. then he is an Embracer, and may be punished at the Suit of the King or Party.

Champarty  
what.

To inform a Jury of his own Head, and not as a Witness, is Maintenance. 28 H. 6. fol. 6.

If one Juryman gives Money to another of the Jury to bring in his Verdict, it is Maintenance. 17 Ed. 4. fol. 5.

Cases of Main-  
tenance.

If a Person of Power or Authority declare publicly in the hearing of many People, that he will spend Money for such a Person in a Suit, &c. 'tis Maintenance. 9 H. 7. fol. 18.

If one who is no Party to the Suit, write a Letter to a Juryman to appear, 'tis Maintenance; but if 'tis done by one of the Parties to the Suit, 'tis Embracery. Yet my Lord *Hobart* tells us, that where the Defendant was indicted for desiring a Juror to appear, and to do him reasonable Favour, or Words to the like Effect; this is not punishable, because the Court must know the very Words. *Moor* 816. 2 *Leon*. 134. *Hob.* 295.

To assist a Person prosecuting an Indictment, is not Maintenance, because it is for the Advantage of the King; but it is otherwise if the Prosecution had been by an Information upon a penal Law, because there a private Person is concerned also. *Godb.* 169.

No Maintenance to assist  
a Prosecutor  
on an Indictment.

So where Men have a joint Interest, as for Right of Common, &c. there they may join and enter into Bonds to defend that Right against the Lord or any other Person, and 'tis not Maintenance, because 'tis in Effect but the Interest or Suit of one; and as they have this Prejudice by it, that one cannot be a Witness for the other, therefore 'tis not unreasonable that they should all join for their common Advantage.

Nor for Men  
to join who  
have a joint  
Interest.

Shewing the  
Jury Prece-  
dents, Mainte-  
nance.

None to buy  
pretended Ti-  
tles.

Dyer 53.

Maintainers  
forfeit 10 l.  
and are punish-  
able either by  
Indictment or  
Information.

Case of Main-  
tenance.

Soliciting the Jury, and shewing them Precedents where great Damages were given in a like Case, it is Maintenance. 3 Cro. 736.

By Stat. 32 H. 8. c. 9. If any shall buy any pretended Title to Land, unless the Seller hath taken the Profits thereof one whole Year next before such Bargain, then both Buyer and Seller are each to forfeit the Value of the Land.

And by the same Statute none shall unlawfully maintain any Suit or retain any Person for Maintenance, embrace Jurors, or suborn Witnesses, on Pain to forfeit for every Offence 10 l. to be divided between the King and the Prosecutor.

Maintenance is punishable either by an Information upon the aforesaid Statute, or by an Indictment at Common Law.

One was disseised, and being out of Possession, and without making any Entry, she made a Lease of the Lands to another, to try the Title against the Disseisor. And this was held Maintenance, altho' the Lessee had no Interest by his Lease. So likewise where one contracted with another to sell him a Title which he supposed he had to sell, and made a Lease to a Friend to try the Title, tho' no Action was brought, or any thing done on it. Moor 266. 751. 1 And. 201. 1 Leon. 162.

### Indictment for Maintenance.

Essex. ff. **J**urk' &c. quod A. B. de C. in Com' pzed' Gen' 3<sup>o</sup> die Julij Anno Regni, &c. apud C. pzed' in Com' pzed' quandam actionem que fuit in curia Dom' Regis coram ipso Rege et iudic' inter quendam L. M. querentem & N. O. Defend' de placito debiti pro parte pzed' L. M. versus pzed' N. O. iniuste & illicite manutenuit & sustentavit contra formam Statut' in huiusmodi casu edit' & prohib' & in manifestam retardationem & disturbantiam Iustitie ac in dicti D'ni Regis contemptum & pzed' N. O. grave dampnum ac contra pacem Dom' Regis Coxon' & Dignitat' suas.

It must set  
forth a Suit.  
Savil 42.

\* This being  
the Word in  
the Stat. it had  
been naught if  
omitted. Sa-  
vil 41.

1 Vent. 302.

Prosecution on the Statute must be within a Year after the Offence committed.

Mayors.

## Mayors. Vide ante p. 129.

**I**N what Cases Mayors of Corporations may, by Virtue of several Acts of Parliament, act as Justices of Peace, you may read in the former Part of this Treatise, p. 129. What we shall add in this place is,

By Stat. 13. Car. 2. No Person shall bear any Office of Government in any Corporation, &c. that hath not received the Sacrament according to the Church of England, within one Year before the Election, and who shall not take the Oath of Allegiance and Supremacy, &c.

Mayor must conform to the Church of England.

By this Stat. Mayors, &c. were likewise to subscribe a Declaration that there lay no Obligation upon them from the Oath commonly called the Solemn League and Covenant; but this is taken away by a late Stat. 5 Geo.

By the Stat. 10 Anne, Mayors and Officers of Corporations are prohibited from going to Conventicles where the Royal Family shall not be prayed for in express Words, (though the Liturgy of the Church of England be used) under the Penalty of 40*l*.

But this is altered by 5 Geo. but the Mace, Gown, or other Ensigns of Magistracy, may not be carried to a Conventicle, on Pain of Disability to enjoy any Office, &c.

Ensigns of Magistracy must not be carried to Conventicles.

By Stat. 9 Anne c. 20. If any Person intrudes into or executes the Office of Mayor, Bailiff, &c. a *Quo Warranto* may be brought against the Usurper; and if the Defendant in the *Quo Warranto*, shall be found Guilty of an Usurpation or Intrusion, the Court shall give Judgment of Ouster, fine the Offender, and order the Plaintiff Costs.

And no Person who hath been or shall be in an Annual Office for one Year, shall be chosen into the same Office the next Year. And obstructing the Choice of a Successor, incurs a Penalty of 100*l*.

An annual Officer not to be chose 2 Years successively.

A Corporation cannot do an Act in *Pais*, without the Common Seal and Hand of the Mayor; but they may do an Act upon Record without it. The Mayor of *Thetford's Case*. *Hil. 1. Ann. Salk. Rep. 192.*

Acts in Pais must have the Seal of the Corporation and the Mayor's Hand.

For if an Action be brought against a Corporation for a false Return of a *Admondamus*, because it was



Where a Mayor returns a Writ of his own Head.

Case of an Alderman of Rippon.

Recorder removed for not attending Sessions.

Town-Clerk may be removable at Pleasure.

Mayor suable where the Corporation is dissolved.

But not the particular Members.

Corporation answerable for what its Officers do.

Every City &c. has Power of making By-laws.

return'd without the Common Seal, or the Hand of the Mayor, they are estopped, to say it is not their Return; for it is the *Responsio Majoris & Communitatis* upon Record.

If a Mayor will return a Writ contrary to the Sense and Consent of the Majoriry of the Corporation, they cannot avoid it, as he is the Head and Principal; but they may take their Course against him. The Mayor of *Norwich's Case*. *Salk* 432.

On a *Mandamus* to the Mayor, Aldermen, and Comonalty of *Rippon*, to restore a Person to the Place of Alderman; it was proved that he declared to the Corporation, he would no longer serve in that Office; which Resignation the Corporation accepted and chose another, and held good. But it was held he had Power to wave his Resignation at any Time before they had made an Election. *Sir Jonathan Jennings's Case*. *Salk* 433.

Serjeant *Whitacre* got a *Mandamus* to be restored to his Recordership of *Ipswich*, from which he had been removed for not attending at the Sessions of the Peace, though he had Notice. But the Court held that the Recorder was bound to attend and assist at the Sessions, to direct the Corporation in the Proceedings of Justice; and that Non-attendance is a good Cause of Forfeiture of his Office, which so nearly related to the Administration of Justice. *Salk* 435.

Where a Corporation has a Patent to make a Town-Clerk *durante beneplacito* of the Mayor and Aldermen, they may turn him out at their Pleasure. *Sed Quere* of a Recorder. 2 *Keb* 461. And an Alderman cannot be turn'd out.

An Obligation being sealed with the Common Seal of a Corporation, which the Mayor signs, the Corporation is afterwards dissolved, the Mayor is suable upon it. 2 *Leon* 137.

But if a Corporation seals a Bond, and two of their Members sign it, and afterwards the Corporation is dissolved, the particular Persons are not obliged by it. 1 *Leon* 237.

If the common Officer of a Corporation does any Thing for their common Use, the Town shall be answerable. 1 *Leon* Case 215.

Every City and Town Corporate may, by a Power inherent to their Constitution, make By-Laws for the Government of the Body Politick. 5 *Mod* 429. And a Body Politick is a Creature of the King, created by Letters Patent. *Hill* 22 Car. 2. B. R.

The

The Consent of the greater Part shall be binding ; but they may not make any Ordinances to the Diminution of the King's Prerogative, or against the Publick Good, under the Penalty of 40*l.* 19*s.* 7*d.*

Actions arising out of Corporations, ought not to be tried in Corporation Courts ; for their Jurisdiction extends no further than to the Trial of such Actions, the Cause whereof arises within their Jurisdiction. *Lut.* 1571.

If a Corporation neglects to choose such Officers as they ought to elect by their Charter, or if they make a false Election, this may amount to a Forfeiture. And the Charter implies Conditions in Law for them to perform ; and by the Non-performance the Charter is forfeited. *Hil.* 21 *Car.* B. R.

Actions must not be brought in Corporations for Things arising out of their Jurisdiction.

What amounts to a Forfeiture of Charter.

## Malt.

THERE was an Act of Parliament relating to Malt made 17 *Ric.* 2. c. 4. and another 3 *Jac.* 1. c. 11. but neither of them any way relating to the Office of a Justice of Peace, I shall forbear saying any more of either of them in this Place.

The first which gives any Power to Justices of Peace is 2 & 3 *Edw.* 6. cap. 10. by which it is enacted that none shall employ less Time in the making and drying of Malt (except in the Months of *June, July* and *August*, than three Weeks ; nor in those Months less than seventeen Days ; nor put to Sale any Malt mingled of good and bad, on Pain to forfeit for every Quarter so put to Sale 2*s.* to be divided between the King and the Prosecutor.

2 & 3 *Ed.* 6. c. 10.

None shall put any Malt to Sale before (by treading, rubbing, and fanning it) he shall have conveniently taken out of every Quarter, half a Peck of Dust or more, on Pain to forfeit 20*s.* for every Quarter otherwise sold, to be divided between the King and the Prosecutor.

2 & 3 *Ed.* 6. c. 10.

Justices of Peace in Sessions, and Stewards in Leets, have Power to hear and determine these Offences, as well by Presentment of twelve Men, as by Information of two Witnesses.

D 3

Bailiffs

Bailiffs and Constables of Towns and Places where faulty Malt is made and mingled as aforesaid, have Power to make Search for it; and it being found, (with the Advice of a Justice of Peace) to make Sale thereof at their Discretions.

None shall be punished by this Act who only maketh Malt for his own Provision, nor unless the Action be prosecuted within one Year.

The Stat. 39 Eliz. c. 16. Entituled, An Act to restrain the excessive making of Malt, is repealed per Stat. 9 and 10 W. 3.

By Stat. 8 & 9 W. 3. c. 21. a Duty of 6d. per Bushel on Malt, is given to the King, his Heirs and Successors, the Collecting it to be under the Management of the Commissioners of Excise, from the 20th of April 1697, to the 20th of April 1699.

The Duties on Malt have been prolonged by the several Acts of Parliament in the Margin; and continued from Time to Time down to this present Year 1727.

10 Ann. c. 3. 12 Ann. c. 3. 1 Geo. Sect. 1. 3 Geo. c. 4. 4 Geo. c. 3. 5 Geo. c. 2. 6 Geo. c. 2. 7 Geo. c. 20. 8 Geo. c. 2. 9 Geo. c. 3. 10 Geo. c. 2. 11 Geo. p. 83. 12 Geo. p. 151.

Proceedings may be in English.

By 6 Geo. c. 21. All Informations, Complaints and other Proceedings, as well before Commissioners of Excise, as Justices of Peace, shall and may be entered and enrolled in the *English* Tongue.

By 13 and 14 W. 3. If when the Duty is paid the Malt should be lost either by Fire or Water, the Collector of the Duty shall repay it to him.

But then he must prove his Loss at the Quarter-Sessions by Oath of two Witnesses; and the Justices in Sessions must certify it under their Hands and Seals; and upon producing the Certificate, the Money must be paid.

By Stat. 4 Anna, the like Proof must be made at the next Quarter-Sessions, if the Malt be taken by the Enemy; and upon the like Certificate, the Collector of the Duty is obliged to pay so much to the Proprietor as shall have been by him paid for the Quantity of Malt so proved to be taken.

If any Malt shall be damaged by the Casting away or Sinking of the Vessel, the Justices in Sessions, upon Proof thereof, and of Payment, or Security given for the Duty, may settle the Quantity of the Damage, and what Allowance to make, and certify the same

13 and 14 Wil.  
1 Ann. continued by 7 Ann.  
c. 3. 9 Ann.  
c. 3. 12 Ann.  
c. 3. 1 Geo.  
c. 4. continued till 24. June 1718.

4 Geo. c. 2. continued to 24 June 1720. 6 Geo. c. 3. continued to 1721.  
1 Ann. c. 3.  
7 Ann. c. 3.  
Malt lost or damaged must be allowed for.



same under their Hands and Seals ; and the Proprietor producing that Certificate to the Collector of the Duty, he shall repay or allow the Sum therein certified ; or in Default thereof, the Proprietor may deduct it out of any subsequent Duty becoming due.

The Person sustaining any Damage, &c. must give three Days Notice in Writing to the Collector, &c. where such Damage shall happen, of his Intention to apply himself to the Sessions. Sufferer must give three Days Notice to Quarter-Sessions.

No Malster or Maker of Malt for Sale or Exportation, shall wet his Barley on the Floor, or any other Place but in his Cistern, duly entred for that Purpose, at the Office of Excise of the Division or Place, &c. on the Forfeiture of 2s. 6d. per Bushel. Nor shall permit any Corn to sprout at the End from which the Blade proceeds ; if he does, then an Officer may take up an Handful in any particular Part of the Floor or Wetting ; and if he find that more, than one Part in fifteen in his Hand, sprouts out at the End, the entire Wetting shall be deemed of the same Nature ; and the Malster shall be charged with the full Duty of Six-pence per Bushel ; and likewise shall forfeit 5s. for every Bushel. 6 Geo. c. 21. Malster nor to wet his Malt on the Floor.

Upon Appeals to the Sessions from any Judgment given by particular Justices, upon Informations for Offences relating to the Duties on Malt, Hides, and Skins, &c. the Sessions may re-examine the Truth and Merits of the Fact, upon the Oaths of the Witnesses, and finally determine the same, and rectify and amend any Defects of Form in the Orders of particular Justices. Sessions may upon Appeal finally determine Informations, &c. on Excise.

By the 9th of K. Geo. c. 3. If after the 25th of March, 1723. and after the Duties by 12 Ann. c. 2. imposed on Malt, and thereby continued, are paid, any Quantity of Malt shall happen to be destroyed or damaged by Fire, or shall perish or be damaged by the casting away of, or by any inevitable Accident happening to any Barge or Vessel, in which the Malt shall be transporting from one Part of this Kingdom to another, or put on Board for that Purpose ; and this being proved by the Oath of one or more credible Witnesses, and of the Duty being paid before the Justices in the Quarter-Sessions ; then the Sessions may grant a Certificate thereof, and of the Amount of the Duty ; and upon producing such Certificate to the Collector of the Duties on Malt, he shall repay the Proprietor so much Money as the Sum

Sum certified to be paid for the Duty of the Malt so lost shall amount unto; and if not totally lost, but damaged only, the Sessions shall settle the *Quantum*, on Proof of the Damage and Payment of the Duty, and certify under their Hands and Seals, how much they allow for Damages, to be repay'd by the Collector. *Vid. le Statute.*

Maltsters to  
make Entries  
once a Month.

By Stat. 8 & 9 of W. 3. Every Maker of Malt shall once a Month make an Entry at the next Excise-Office of all the Malt he hath made, under the Penalty of 10*l.* and shall within three Months after (but now the Time is enlarged to four Months, by Stat. 1 Geo.) pay the Duty for the same respectively; and refusing or neglecting to make such Payment, or selling or delivering out any Malt before the said Duty be cleared, shall forfeit double the Duty in the first Case, and double the Value in the last.

Officers of Ex-  
cise may enter  
in the Day-  
time.

Officers of Excise are to enter in the Day-Time into the Houses, Malt-houses, or other Places, to gauge the Vessels used for steeping Barley, &c. for making of Malt, and take an Account of the Quantity steeped therein, leaving a Copy of the Account with the Malster for a Charge. Malster refusing Entrance to the Officer forfeits 5*l.*

Malster not to  
alter his Vessel  
without giving  
Notice.

No Maker of Malt shall alter his Vessel for steeping of Barley or Grain for Malt, without first giving Notice thereof to the next Officer of Excise, nor keep any private Vessel for that Purpose, under the Penalty of 50*l.*

Collectors may  
agree for 5*s.*  
per Head.

Collectors of Excise may agree with Persons making Malt for their own Families only, at 5*s.* per *Ann.* for every Head in the Family, and take Security for paying the same Quarterly: But if such Person, after Composition shall sell or deliver out any Malt to others, or sell any Beer, Ale, or other Liquors made of Malt, he shall forfeit 50*l.* and lose the Benefit of such Composition.

What Measure  
is meant.

The Bushel in this Act is meant to be the *Winchester* Bushel; and the Barley or Grain in steeping, or steeped, shall be returned as so many Bushels of Malt, according to such Bushels; but out of every twenty Bushels of Malt, charged by the Gauger, there shall be an Allowance of four Bushels, in Consideration of the Difference between Corn wet and swollen, and the same converted into dry Malt.

Penalty of  
concealing  
Malt.

By Stat. 2 *Anna c. 2.* If any Maker of Malt shall conceal or convey away his Malt from the Sight of the

## Malt.

the Gauger appointed, he shall forfeit 10*s.* for every Bushel thereof.

Justices have Power to mitigate the Penalties above, so as not to be reduced to less than double the Duty, and the Costs and Charges in Prosecution, as in the Case of Brewers.

If any Malt shall be brought from Scotland either by Sea or Land, it shall be entred either at the Port of Landing, or at Berwick, or Carlisle, and pay Duty 6*d.* per Bushel, on Pain of forfeiting the Malt, or the Value thereof, by Stat. 9 Ann. c. 3. All Prosecutions on this Act to be made within 5 Years after the Offence committed.

For Forfeitures of Malsters for Concealments to defraud the King of his Duty, Conviction to be by Information on Oath of Gaugers, &c. before two Justices of Peace. 13 & 14 W. 3.

How Convictions of Malsters must be.

By 7 Ann. c. 3. No Malster shall mix Corn or Grain making into Malt of one Wetting, with Corn making into Malt of a former Wetting, before the same is put on the Kiln for drying, on the Forfeiture of 5*s.* for every Bushel so mixed; one Moiety to the King, the other to the Informer. 7 Ann. c. 3.

Malsters must not mix fresh Corn in malting.

## A Warrant to levy the Forfeiture for wetting Barley on the Floor, &c.

Essex. ss. **W** Hereas A. B. of, &c. Gauger of Ex- 6 Geo.  
cise, hath this Day made Information on Oath before us C. D. and E. F. Esqs; Justices of the Peace for the County aforesaid, that G. H. of, &c. on &c. wetted or caused to be wetted, fourscore Bushels of Barley making into Malt on the Floor, in the House of the said G. H. and not in his Cistern duly entred, contrary to the Statute in that Case made and provided: These are therefore to command you to levy on the Goods and Chattels of the said G. H. the Sum of 10*l.* which he hath forfeited by the Offence aforesaid. Given, &c.

A War-



## Malt.

### A Warrant to levy the Forfeiture for not making an Entry.

13 & 14 W. 3.

Essex. ff. **W** Hereas A. B. of, &c. Officer of Excise, has this Day made Oath before me that C. D. of your Parish, Malster, hath for this six Weeks last past and more, made Malt in a House belonging to the said C. D. situate, &c. without making any Entry, at the Excise Office, of the said Malt, as the Acts of Parliament direct, whereby he hath forfeited the Sum of 10l. These are therefore in his Majesty's Name, to require you to demand the said 10l. of the said C. D. so forfeited as aforesaid; and upon his Refusal to pay the same, that you do levy the same on the Goods and Chattels of the said C. D. by Distress and Sale thereof, rendering to him the Overplus (if any). Given, &c.

### A Warrant to levy the Forfeiture for concealing of Malt and Cisterns for steeping of Malt.

13 & 14 W. 3.

Essex. ff. **W** Hereas A. B. of, &c. Gauger, hath this Day made Information on Oath before us, that on, &c. of this Instant, &c. in the House of C. D. Malster situate, &c. he found out and discovered a private Cistern or Vessel for steeping of Barley, at which Time there were thirty Bushels of Barley steeping in the said Cistern unentered, contrary to the Statute in that Case made and provided: These are therefore in his Majesty's Name to command you to levy on the Goods and Chattels of the said C. D. the Sum of 14l. which we do hereby adjudge be hath forfeited, and order to be paid, and no more, for the Offence aforesaid, by Virtue of the Power to us given by the Acts of Parliament to mitigate Penalties for the Offences of this Kind. Given, &c.

Manlaughter. See Homicide.

Mariners. See Seamen.

Manu-

## Manufactures.

### See Artificers and Apprentices.

**P**ERSONS employed in making up the Woollen, Linen, Fustian, Cotton, or Iron Manufactures, embezzling or purloining any Wests, Thrums, or Ends of Yarn, or any other Materials of Wool, Hemp, Flax, Cotton, or Iron, with which intrusted, or that shall reel false or short Yarn, being thereof convicted by Oath of one Witness, or Confession, before one Justice, &c. shall forfeit double the Value of Damages done, for the Use of the Poor. On neglect or Refusal to pay, to be sent to the House of Correction till Satisfaction made; if not able, to be kept there not above 14 Days, publicly whipped, and kept to hard Labour. Buyers and Receivers of, &c. liable to the same Punishment.

2 Ann. c. 18.  
Manufacturers  
not to embe-  
zle Goods with  
which they are  
intrusted.

## Markets and Fairs.

**T**HESE being by Grant or Prescription, if they are held otherwise, they are unlawful. Are held by Grant or Prescription.

2 *Saund.* 174.

In every Shop in London, every Day (except Sunday) is a Market Overt; and the Sale in Shops there for a just and valuable Consideration is good.

But then it must be of such Goods which are proper to the Trade of him in whose Shop 'tis sold; as Plate in a Goldsmith's, &c. 5 Co. 85.

And it must be sold openly in the Shop, and not in a clandestine and secret Manner; and the Buyer must not know that the Goods are stolen. In the Country where Things are sold in distinct Places in a Market or Fair, the Goods must be sold in the usual Place appointed for the Sale thereof, otherwise the Property is not altered. *Moor* 300.

3 Rep. 78.

If I deliver Goods to another to keep for me; or if I pledge them, and he sells them in a Market, the Property is still in me, and is not altered by such Sale. *Hob.* 79.

Goods sold by  
one to whom  
they were  
pledged, the  
Property is not  
alter'd.

Sale

Sale upon a Sunday, though in a Market or Fair, does not alter the Property.

It hath been a Question whether a Clerk of a Market can distrain *ex Officio*, for using unlawful Weights or Measures not according to the Statute.

Fairs are not to be held for more Days than they are granted.

Fairs or Franchises, whether they be held by Charter or Prescription, must be holden for no more Days than may be warranted by Grant or Usage; and the Sheriff ought to make Proclamation that those who have Fairs, keep them no longer than they ought to do. 2 Ed. 3. c. 15. And the Lord of the Fair at the Beginning thereof shall make Proclamation how long the same is to continue, on Pain to be grievously amerced to the King; and if he hold over, the Fair shall be seised into the King's Hand till he make Fine for the Offence: And if a Merchant sell Wares after the Time, he shall forfeit to the King double the Value for what 'tis sold; and the Prosecutor shall have the fourth Part. 5 Ed. 3. c. 5.

No Fair or Market shall be kept in Church-yards.

No Fair or Market shall be kept in Church-yards. 13 Ed. 1. c. 6. Stat. Winchester.

None shall buy Cattle to sell them again in the same Fair. 3 & 4 Ed. 6. c. 19.

Touching Sale of Horses in Fairs, &c. See Tit. Horses.

For Office of the Clerk of the Market, see Tit. Weights.

He that pleads a Sale in Market, must plead that it was done in *pleno Mercato*.

11 & 12 W. 3. c. 24. Billingsgate is a free Fish-Market.

By Stat. 11 & 12 W. 3. c. 24. Billingsgate is made a free Market for Fish every Day, except Sundays.

No Fisherman or other Person selling Fish there, shall pay any other Toll or Duty for every Vessel with Salt-Fish for Groundage, 3 d. per Day, and 20 d. per Voyage, to be disposed of as Lord Mayor and Court of Aldermen direct. For every Lobster-Boat, every Vessel with fresh Sea-Fish, and every Dogger-Boat or Smack with Sea-Fish, for Groundage 8 d. per Day, and 13 d. per Voyage; and for every Oyster-Vessel or Cock, for Groundage 1 d. per Day; for Metage one Half-penny per Bushel, and 13 d. per Voyage, and no more, in full for all Duties, &c. to be disposed of as aforesaid.

All Persons buying Fish at Billingsgate may sell the same again any where in London by Retail, only none but Fishmongers shall sell in fixed Shops, or Houses.

This



This Act not to alter any Law in Being, concerning Fish caught by Foreigners.

Any Persons taking Toll or Sample, or any other Imposition on any Sea-Fish of *English* Catching (being contrary to 5 *Eliz.*) shall forfeit 10*l.* one Moiety to the King, the other to the Prosecutor.

None shall employ or be employed by any other Person in buying at *Billingsgate*, any Quantity of Fish, to be divided by Lots or in Shares among any Fishmongers or others, to be afterwards sold by Retail or otherwise. Nor shall any Fishmonger ingross or buy in the said Market any Quantity of Fish but what shall be for his own Sale or Use, and not for any other Fishmonger to sell again, under the Penalty of 20*l.* each Offence; one Moiety to the Poor of the Parish, the other to the Prosecutor.

None to buy  
Lots of Fish  
for Fishmong-  
ers.

No Fisherman or other Person shall bring on Shore or sell any Lobsters which are not eight Inches long, under Penalty of 12*d.* for every such Lobster; one Moiety to the Poor, the other to the Prosecutor, to be recovered on Conviction before the chief Magistrate of any City or Corporation, or before the next Justice of Peace where the Offence is committed.

No Fish (except Stock-Fish and live Eels) taken by any Foreigners, Aliens (except Protestant Strangers inhabiting within the Kingdom) shall be imported in any Foreign Ship or Vessel, not being wholly *English* Property, and sold in *England*, under the Pain of forfeiting such Ship, &c. with its Tackle, and all the Fish so imported and sold; one Moiety thereof to the Poor of the Parish where seised, the other to the Seisor; but not to prohibit the Importation of Anchovies, Surgeon, Botargo, or Cavear, nor selling Mackarel before or after Divine Service on Sundays.

Fish not to be  
imported in  
Foreign Ships.

A Sale in a Market Overt shall not bind him who hath Right to Goods, if the Sale be by Fraud; or if the Person that buys the Goods hath Notice that the Property is another's. *Hill.* 33. *H.* 6. f. 5. pl. 15.

Where Plate was stoln, and afterwards sold in a Scrivener's Shop, the Property was not altered; nor if it had been sold to a Goldsmith in a Back-Shop; but the Sale must be in an open Shop, where every one that passes by may see. So resolved *Hill.* 38 *Eliz.* at the Sessions in the Old Bailey. 5 *Co.* 83. *Popb.* 84. 1 *And.* 344. pl. 319. *Hesly's Rep.* 62. 63. *Panton versus Hassel.* *Godb. Rep.* 131. *Kelynge's Rep.* p. 35.

Sale

**Markets and Fairs, &c.**

Sale to a Pawn-broker, though in his Shop, alters no Property. *Kelynge 50.* it is not a Market Over.

**Master.** See Apprentices.

**Measure.** See Weights.

**Militia and Muskets.** See Soldiers.

**Miller.** See Weights.

**Minister.** See Divine Service.

**Misprision of Treason.** See Treason.

**Marriages.**

See Bigamy and Felony, and Woman.

Marriages by  
Justices of  
Peace made  
good.

**A**LL Marriages made since 1642, before any Justice of Peace, confirmed and made good, and Issues about Bastardy, or otherwise touching the same, to be tried by Jurors, by Stat. 12 Car. 2. c. 33.

**Misdemeanor.**

**T**HIS Word in its general Sense including all Sorts of Crimes and Offences; it would be endless to enumerate all that might be spoke to under this Head; I shall therefore content my self with mentioning a few.

Parson in Wo-  
man's Cloaths  
whipping a  
Man, fin'd  
500 l.

A Woman being abused by her Husband, hired a Parson to come and whip him; who accordingly came in Woman's Cloaths with a Rod, and fell upon the Husband: In struggling they were both hurt, and the Parson ran away from the Husband, who dyed a little after the Scuffle: All this coming in Proof before the Court, the Wife and Parson were each of them fined 500 l. *Rep. 129.*

One sent a Challenge by another to fight; they were both indicted for this Misdemeanor, and fined 100*l.* a piece, and committed for a Month without Bail; and were to make a publick Recantation, as the Court should direct, and to be of the Good Behaviour for seven Years. *Sid.* 186.

One sending a Challenge, fin'd 100*l.*

Sir C. S. was indicted at Common Law for a Misdemeanor for shewing himself stark naked, and other Enormities, in a Balcony in Covent-Garden. He confessed the Indictment, was fined 2000 Marks, and to be committed for a Week without Bail; and to be of the Good Behaviour for three Years. *Sid.* 162.

Sir C. S. fin'd 2000 Marks for a Misdemeanor.

Another was indicted for seducing an Apprentice to a Bawdy-House, and causing him to spend his Master's Money. *Sid.* 166.

Another fin'd for seducing an Apprentice.

Another for intending to kill the Master of the Rolls, and offering a Person 100*l.* to do it, was fined 1000 Marks, to be imprisoned three Months without Bail, and to be of the Good Behaviour during Life. *Sid.* 251.

Another fin'd a Thousand Marks for offering 100*l.* to kill the Master of the Rolls.

Another for reading a Release to an illiterate Man in other Words than it was written, which he sealed. *Sid.* 312.

Another for misreading a Release to an illiterate Man, who sealed it.

### A Condition of a Recognizance for Misdemeanor.

**U**PON this Condition, that if you A. B. shall personally appear before our Sovereign Lord the King's Justices of the Peace, at the next general Quarter-Sessions of the Peace, to be holden for the County of Essex; and do then and there make answer unto all such Things which (on his Majesty's behalf) shall be objected against you; and do not depart thence without Leave of the Court; then this your Recognizance to be void, or else to stand and be in full Force and Virtue, &c.

### Dispension

**I**S where one knows that another has committed Treason or Felony, but was not consenting to it, and yet conceals the Offender. For if he knoweth of the Treason before it is committed, or if he receive and comfort a Traitor, or knowing him to be so,

What is Dispension of Treason.



Forging Foreign Money  
Misprision of  
Treason.  
The Judgment  
in Misprision  
of Treason.

And in the like  
Cases.

Misprision of  
Felony.

Punished by  
Fine and Im-  
prisonment.

Grand Jurymen  
may be fined  
and impris-  
on'd.

What Justices  
may and ought  
to do.

Every Treason  
includes Mis-  
prision.

so, then he is a principal Traitor; for there are no Accessories in Treason.

By the Common Law, Concealing Treason was Treason, but now by Statute of 1 & 2 M. c. 10. it is declared to be only Misprision.

By 14 Eliz. c. 3. Forging foreign Money is made Misprision of Treason.

The Judgment in Misprision of Treason is Forfeiture of Goods and Chattels for ever, Forfeiture of Profits of Lands, during Life, and Imprisonment during Life. 3 Inst. 134.

Like Judgment is it, with the Loss of the Right Hand, for one to draw a Sword or strike a Judge or Jurymen in the Presence of a Judge sitting in Court; or to strike one in *Westminster-Hall*, sitting the Courts; or to draw a Weapon upon any Judge or Justice in Presence of a Judge of Assize, or to rescue a Prisoner from the Bar of B. R.

By the Common Law, Concealing a Felony, or Procuring the Concealment, or Compounding it, was Misprision of Felony.

But if a Man knows that a Felony is committed, and takes his Goods again, 'tis no Offence, unless he takes them, or some other Amends, not to prosecute, and then it is called Theftbote; and this is an Offence more than a Misprision of Felony, because it is more than a Concealment of the Felon, but the Punishment is the same in both Cases, viz. Fine and Imprisonment, if in a common Person; if in an Officer a Fine, and though paid, Commitment for a Year.

If a Grand Jurymen discover the Persons indicted, or the Evidence, he is punishable by Fine and Imprisonment.

If a Person assault a Judge, or Judge of Assize, the like Punishment.

Or if he assault a Juror, for giving a Verdict against the Offender.

And though Justices of Peace are not impowered by their Commission, or by any Statutes, to hear and determine these Offences, yet since they are against the Peace, they may cause the Offenders to be taken; and two Justices may take Informations upon Oath against such Persons, and put it into Writing, and bind the Witnesses in a Recognizance to prosecute and give Evidence at the Assizes, &c.

N. B. That every Treason or Felony do include Misprision, so that where any Person hath committed Treason

Treason or Felony, the King may cause the Offender to be indicted and arraigned but of Misprision.

*Dalt.* 335.

Compounding of Felonies is also Misprision of Felony at the least, if it be not Felony. *Ibid.*

N. B. That all Treasons, Misprision of Treason, Treasons out and Concealment of Treason, done or committed of the Realm out of the Realm, shall be inquired of and tried with- where to be tried. in the Ralm; viz. in the King's Bench, or else before Special Commissioners. 35 H. 8. c. 2. & 5 Ed. 6. c. 11. *Dyer* 132. 287. 298. 360. Co. 7. 23. and 11. 63.

## Mittimus.

**A** Mittimus is the Warrant by which the Prisoner is sent to Gaol, &c. What a Mittimus is.

It must be in Writing, and under Hand and Seal.

The Names of the Party committed, the Time of making it, the Cause of the Commitment must be expressed in it; as for Treason, Felony, or Suspicion thereof; that it may appear whether the Prisoner beailable or not; and that those who have the Custody of him, may take the more Care of him; for if the Cause be expressed to be Treason or Felony, it is so in the Officer who suffers him willingly to escape, whether he be guilty or not: Otherwise if no Cause be expressed. If it be a Commitment to the House of Correction only, the Mittimus ought to express the Cause. Co. 2. *Dist.* 32. If the Commitment be without Bail or Mainprize, and it expresses the Cause, which is a Case wherein he isailable by Law, it seems reasonable that other Justices of Peace may bail him; but if no Cause be expressed, other Justices shall not do well to bail him without the Privy of the first Justices; because the Cause of Commitment may (probably) not beailable. *Dalt.* 439.

If the Mittimus be general, the other Justices that bail, must take Notice at their Peril. *Ibid.*

Mittimus must be to the common Gaol by 23 H. 8. Must be to the c. 2. Some have been of Opinion 'tis best for the common Justice to give a Warrant to the Constable to carry Gaol. the Offender, and also a Mittimus to the Gaoler to receive him, especially if it be for an Offence against a Statute.

And directed  
to the Gaoler.

It must have  
apt Conclusi-  
on.

The Mittimus should be directed to the Gaoler or Keeper of the Prison: It ought also to express the Person who makes it; as *A. B.* one of the Justices of Peace of the County of, &c.

It must have an apt Conclusion, as thus, [The Prisoner safely to keep until he be delivered by due Course of Law, &c.] But then that general Conclusion is not good, when the Prisoner is committed for not doing something ordered or enjoined by some Statute; as to find Sureties, or the like; for then the Mittimus must conclude accordingly; and great Care is to be taken of this, or otherwise the Warrant is void. *Co. 2. Inst. 591.*

If the Mittimus be for Felony, and the Felon hath confessed the Felony upon his Examination, it ought to be so expressed in the Mittimus.

### A Mittimus of a Prisoner on Suspicion of Felony.

*Essex. ff. J. S. one of his Majesty's Justices, &c. to the Keeper of his Majesty's Gaol of Chelmsford, for the said County, &c. or, to his Deputy there, Greeting. These are in his Majesty's Name to charge and command you that you receive into your said Gaol, the Body of A. B. late of, &c. taken by F. G. and J. S. Constables of the Town of W. and by them brought before me, for Suspicion of Felony, &c. and that you safely keep the said A. B. in your said Gaol until the next general Gaol-Delivery for the said County [if he be not bailable; or if he be bailable, then thus] until he shall thence be delivered by due Course of Law: And hereof fail not, &c.*

### A Mittimus of a Felon after his Examination taken.

*Essex. ff. J. S. Bar. one of the Justices, &c. to the Keeper of his Majesty's Gaol at Chelmsford, for the said County, &c. Greeting. I send you herewith the Body of R. G. late of F. Apothecary, brought before me this Day, and charged with the felonious Taking of twenty Sheep; (which also he hath \* confessed upon his Examination before me) and therefore these are (on the behalf of our said sovereign Lord) to command you that immediately on Sight hereof, you receive the said R. G. and him safely keep in your said Gaol, until that he shall be thence delivered by*

\* But this  
Clause maketh  
the Prisoner  
not to be bail-  
able.

due



## Mittimus. Money.

51

die County of Essex. Hereof fail you not, as you will answer for your Contempt, at your Peril. Given, &c.

A Mittimus to send to Gaol an Alehouse-keeper, who keepeth an Alehouse after he has been duly suppressed.

Essex. H. J. S. and P. K. Esqrs. two of his Majesty's Justices of Peace within the said County of Essex, to the Keeper of his Majesty's Gaol at Chelmsford, for the said County, Greeting. Wherea by Warrant from divers Justices of the Peace of this County, R. G. of, &c. hath been suppressed for keeping an Alehouse, &c. And forasmuch as Complaint hath notwithstanding been made to us (this present Day) that the said R. G. hath and doth, contrary to the said Order and Warrant, and contrary to the Statute in that Case made and provided, still keep a common Alehouse: Therefore we do send you herewith the Body of the said R. G. commanding you, &c. to receive the said R. G. into his Majesty's Gaol, and there safely to keep him for three Days, without Bail or Mainprize, and afterwards until he shall with two Sureties enter into Recognizance, that he shall not keep any common Alehouse, or use common Selling Ale or Beer, and pay his fine of 20 s. according to the Statute in that Case made and provided. Hereof fail you not, &c.

## Money.

ALL foreign Coins, which by the King's Proclamation are allowed to pass, are to be paid and received for good Money.

Foreign Coins made to pass current by Proclamation.

By 19 H. 7. If any refuse lawful Coin in Payment, he is to be compelled by the Officer of the Place to take it, and imprison'd, or otherwise punished, as such Officer shall think fit. And if a Sheriff or other Officer refuse it, he may be compelled to take it by a Justice of Peace, and otherwise punished at the Justice's Discretion, upon 19 H. 7. c. 5. but *Quare* how it may be; he may bind them to the Good Behaviour for a wilful Contempt herein: It is safe to do it at Sessions. I do not find any Power given to Justices against them that import into the Realm bad Money.

E 2

By

437 to 455.

One Justice  
may hear and  
determine  
whether a  
Piece of Mo-  
ney be good  
or not.

By 9 and 10 W. 3. c. 21. Any Person to whom Silver Money shall be tendered, that shall be diminished, otherwise than by wearing, or that shall be suspected to be counterfeit, may cut or break the same in Pieces; and if it appear to be so, Person tendering shall bear the Loss; if not, Person breaking shall take it for what it was coined. If any Dispute arise about it, one Justice, Mayor, &c. may tender an Oath to any Person for the determining any Question relating to the Piece.

### Mortuaries.

In what Cases  
Mortuaries are  
to be taken,  
and when not.

**T**O take any thing at all for a Mortuary, where by the Custom they have not usually been paid, nor where the Goods of the dead Person come not to ten Marks, besides Debts; or for a married Woman, or Infant, or one that keeps no House, or wayfaring Man, or any that is not resident where he died; or to take above 3s. 4d. for a Mortuary when the Goods amount to ten Marks, and under thirty Pounds; or above 6s. 8d. where the Goods are thirty Pounds, and under forty Pounds; or above ten Shillings, where the Goods are above 40l. the Debts paid. Cr. 59. a. N. 28. 21 H. 8. c. 6. And if the Person die in a Place where he or she dwelleth not, their Mortuary shall be paid in the Place where they had their most Abode.

There is a Proviso in the said Statute, that Mortuaries shall be paid in *Wales*, where they have been accustomed to be paid; and that the Archdeacon of *Chester* may take them that have been usually paid.

And that the Bishops of *Bangor*, *Landaff*, *St. Davids*, and *St. Asaph*, shall also take Mortuaries of the Priests within their Jurisdiction, as hath been accustomed. 21 H. 8. c. 6.

Proviso for  
Wales repealed.

But this last Clause is repealed, and made void, by Statute 12 Ann. c. 6. and Prohibition lies upon Suit in Court Christian, for Mortuaries not due, besides an Indictment for Extortion.

Mal

## Multiplication of Gold and Silver.

**T**O practice the Art of Multiplying or Making Gold or Silver, commonly called Studying the Philosopher's Stone, is made Felony by 5 H. 4. c. 4. Lamb. 227. 425. But this Statute is now repealed by Stat. 1. W. and M. c. 30.

**Murder. Vide Homicide.**

**Muster. Vide Soldier.**

## Mute.

**W**HEN an Offender is arraigned, and either Where an Offender stands will not answer at all, or will not answer directly, or plead; then he is said to stand mute. In the first Case it must be enquired, whether he is mute by the Act of God, or by Malice and Stubboynness, &c. If he was born dumb, or is mute by the Act of God, then the Court and the Jury must go on and enquire of the Felony, and whether the Person at the Bar be the same Person; but if he is mute by Malice, then he shall have Judgment, and so he shall, if he doth not answer directly.

But in Treason to stand mute, is taken for a Confession, and consequently amounts to a Conviction, where Mute and the Criminal shall suffer as a Traitor, and after in Treason. Attainder, standing mute must be executed. Dy. 241.

In Appeal must be hanged.

In Appeal.

If one indicted of Felony (for which he is not to have Clergy) stands mute, he shall have Judgment of (*Peine fort & dure*) which is that the Offender be remanded to Prison, and laid in a low and dark Room, naked on the Ground, and on his Back, and his Arms and Legs extended by Cords, and Iron or Stone laid on his Body, something more than he can bear; next Day he shall have three Morsels of Barley Bread, without Drink; the third Day he shall drink thrice of the Water next the Prison, but not running



## Mute. Night-Walkers.

running Water, and shall have no Bread; and thus he shall be kept till dead; and besides this he forfeits all his Goods. *Moor. 550.*

But where he is arraigned of a Felony, in which Clergy is allowed, there he shall have his Clergy. *Moor. Ibid.*

**Needle-Work.** See **Bone-Lace.**

**Nets.** See **Hunting, Partridges and**

**Pheasants, Dogs, Fish, &c.**

**News.** Vide **Pamphlets.**

## Night-Walkers.

**N**ight-Walkers, if justly suspected, or of ill Fame, such as sleep in the Day-Time, and haunt Bawdy-houses by Night, or keep suspicious Company, may, upon Oath made thereof, be compelled to find Sureties for the Good Behaviour, by a Justice of Peace; and that by the first Assignavimus in the Commission. 13 Ed. 1. Stat. *Winch. c. 4. 8. 3. Ed. 3. c. 14.*

Night-Walkers to be bound to the Good Behaviour, and may be indicted at Sessions.

Any one may arrest Night-Walkers, and they may be indicted at Sessions. *Pop. 108. Lamb. 137. 173. Bendlowe's 199. Pop. 208.* Night-Walkers suspected to be Pilferers, or otherwise like to disturb the Peace, or of evil Fame, may be bound to their Good Behaviour. *Dalt. c. 39. 287.*

**Peasants.** See **Peers.**

**Non-**

## Non-conformists.

**P**ersons in any publick Office or Employment, <sup>10 Ann. c. 2.</sup> Place of Trust, Profit, or that receive any Salary or Wages, by Reason of any Grant, Patent, &c. or bear Office of Trust in any Corporation, non-conforming to the Church of *England*, shall forfeit 40*l.* to be recovered in *Westminster Hall*, and incapable of any Office, &c. for the future, unless conform for a Year, and receive the Sacrament three Times within the same. <sup>10 Anna c. 2.</sup> but Part of this Act, and also the Scism-Act made 12 *Ann.* are repealed by a Statute 5 *Geo. c. 4.*

## Norwich and Norwich Stuffs.

**B**y 13 and 14 *Car. 2. c. 5.* In *Norwich* and the <sup>13 and 14 Car. 2. c. 5.</sup> County of *Norfolk*, there must be 12 Wardens and 30 Assistants chose, who within 14 Days after Notice thereof, must take an Oath before the Mayor, <sup>12 Wardens and 30 Assistants to be chose.</sup> faithfully to discharge their Office: If they refuse or die within the Year, the Master-Weavers may choose others.

Half of the Wardens are to be chosen on *Whitson-Monday*, by the greater Part of the Master-Weavers in the City: Half of the Assistants on the same Day by the greater Part of the Weavers of the County.

Seven of the Wardens and Assistants may meet, <sup>7 Wardens may meet when they please.</sup> when they please, or as often as desired by the Assistants. 14 Days before they intend to meet, the Wardens of the City must give Notice to those in the County, when they intend to meet, by setting such Notice upon the Door of their *Sealing-Hall*.

Two of them may search in the publick Places for 2 of them may Sale, and seize defective Yarns, and within 20 Days search in publick Places. afterwards bring them to a Trial by Jury, who may impose fines on the Yarn, not exceeding half the Value, to the Use of the Poor of the Trade. By-Laws being made and confirmed by the Mayor and two Justices of the City, and three of the County (*Quorum* must) must be published four Times in a Year,

## Norwich and Norwich Stuffs.

at four Assemblies for Trade, and may impose fines not exceeding 10 s. for every Offence.

Any hindering them, forfeits 40 s. Any one disturbing them, convicted by Oath of one Witness, or by his own Confession, before the Mayor or a Justice of Peace of the City or County, forfeits 40 s.

To account before the Mayor and one Justice. At their four Assemblies for Trade, they are to account before the Mayor and one Justice of the City, and two of the County, for what Fines and Forfeitures they have received, and what they have expended about the Trade, and what remains by the said Mayor and Justices to be divided as they shall direct, between the Poor of the Trade of the City and County.

Whom the Jury must consist of. The Jury must consist of twelve Artificers, Half of the City, and Half of the County, and must be impanelled by Precept from the Mayor or Deputy; and if any being summoned refuse to appear, forfeits 5 s. to the Poor of the Trade.

All Stuffs in which there is Wool, must be under the Regulation of Wardens and Assistants, and must be brought to *Weavers-Hall* in *Norwich*, before they are exposed to Sale; and if found good, then sealed; if defective, they must be tried by a Jury, &c. who may set Fines not exceeding Half the Value of the Stuffs, for the Use of the Poor of the Trade, and detain them till paid, and sell them, if not paid within forty Days after Trial.

Persons in whose Possession unsealed Stuffs are found, forfeit 40 s. They in whose Possession unsealed Stuffs shall be found, forfeit 40 s. per Piece, and the Maker or Seller 4 s. for selling them unsealed, to the Use of the Poor of the Trade.

If Wardens seal Stuffs which shall be found defective by Jury, such Jury may set Fines on the Wardens of 40 s. for every Stuff; but Wardens shall have double Damages for unjust Vexation.

Persons convicted before the Mayor, or a Justice of the City or County, by Confession, or Oath of two Witnesses, of counterfeiting the Seal or Sealing therewith, or removing the Seal from one Piece to another, forfeit 20 l.

Every one must have his proper Mark upon every Piece made by him, or forfeit 3 s. per Piece to the Poor of the Trade.

How Forfeitures are to be levied. The Forfeitures are to be levied by Distress, &c. by Warrant from Mayor or Justice, or by Action of Debt, Indictment, or Information.

All Yarns and Worsted



Worstedes must be reeled on a Reel of a Yard about,  
and every Reel Stuff must have fourteen Lees.

**Nuisances. See Highways.**

**E**VERY one may in a peaceable Manner assem- Every one  
ble or meet Company, to do any lawful Thing, may remove a  
or to remove or cast down any common Nuisance. Nuisance.

*Dalt. 107. Comp. 66.*

Every common Nuisance done in the King's High-  
way is punishable in a Court-Leet.

Erecting of a Wall, Part on his own, and Part on  
another's Land, the other may pull down that Part,  
though the Owner's Part falls too. *3 Cro. 269.*

An Action of the Case lies as well as an Assise, for Where Action  
a Nuisance of stopping his Way to his Common, tho' on the Case  
the Inheritance come in Question. *3 Cro. 845.* lies.

If any Person water Hemp or Flax in any River, What is a Nu-  
running Water, Stream, Brook, or common Pond, fance.

where Beasts are usually watered, he shall forfeit  
20 s. a Moiety to the Party grieved, or any that  
will sue, the other to the King, to be sued for in any  
Court of Record.

Importation of Cattle from Ireland, declared to be  
a common Nuisance, by 18 Car. 2. c. 2.

If a Nuisance be in the Highway, every one may  
abate it. *Foster 222.*

Its a Nuisance to stop a River with Earth, by  
which the Land is drowned: *Leon. 222.*

A Brew-house, Tan-house, &c. newly erected, may  
be a Nuisance to a private House. *Palm. 530.*

To erect a Rope-dancer's Stage at Obaring-Cross,  
was adjudged a Nuisance. *1 Mod. Rep. 76.*

Alehouses disorderly kept.

What are com-  
mon Nuisances.

Bawdy-Houses.

Brew-Houses.

Bridges, Annoyances in them.

Cottages unlawful.

Eves-droppers.

Gaming-Houses.

Highways, Annoyances in them.

Inmates.

Melting-houses for Candles.

Rivers, Annoyances in them.

Scolds, common.

Stages

Stages for Mountebanks, or Rope-dancers.

Making, Selling, or Throwing Squibs, Rockets, Serpents, &c.

All these are publick Nuisances, for which an Action on the Case will not lie, but an Indictment against the Offender, who being convicted, shall be fined and committed till he pay it.

N. B. The Indictment must conclude *ad commune nocumētum omnium ligearum, &c.*

What private Nuisances,

Stopping another Man's Lights, or Building an House so near to another, that the Water falls on it when it rains, are private Nuisances; but this may be justifiable by the Custom of London, if upon an old Foundation. *Vide Calthrop's Rep.* So is Setting up a Brick-kiln or Hogsty.

These and the like are private Nuisances, for which an Action on the Case will lie, but no Indictment.

Party grieved may remove them.

And both for common and private Nuisances, the Party grieved may enter on the Ground of the Offender, and with proper Instruments remove them; and if he is indicted either for a Trespass or a Riot, he will only be fined in a small Sum, if convicted.

Court will not admit the Offender to a Fine till Nuisance is removed.

Where a Man is indicted for a Nuisance, the Court never admits him to a small Fine, till the Nuisance is removed, which must be proved by Oath, or by the Certificate of two Justices; and the Defendant shall never be allowed to make any Objections against the Indictment till he hath pleaded to it. *Dall. 206.*

Offenders must not be punished without being called to answer.

But in these Cases, as in all others, Offenders ought not to be punished without being called to answer for themselves; for they have Liberty to traverse the Matter alledged against them, though 'tis generally held that they cannot traverse against a Presentment made by a Justice of Peace upon his View. *Dall. 193.*

Passengers may remove Nuisances in the Highway.

And as to Nuisances or other Injuries on the Highways, by digging Ditches, making Cross-Hedges, laying Logs of Timber, or any other Thing, which in some Measure may obstruct the Passengers, any Person may remove them at Common Law, but cannot convert the Materials to his own Use. But in such Cases no one Person can have an Action for obstructing the Highway; but the Remedy is by Presentment at the Leer, or by Indictment, unless any Man hath a particular Damage; for then he may have an Action on the Case, &c. as stopping a Way to a Common is a Nuisance, for which an Action on the Case lieth, though the Inheritance should come in Question. *1 Inst. 56. 3 Cro. 845. 2 Roll. 137.*

Men may meet in a peaceable Manner, and with proper Instruments, to remove a Nuſance, but not in greater Numbers than are needful for that Purpose.

All Indictments for Nuſances ought to be certain, both as to the Place from which the Way doth lead, and to the Place where it doth lead; but there is not any Neceſſity to ſhew that it leads to a Market-Town. But 'tis neceſſary to ſhew in what Place the Nuſance was done, and to what Parts of the Highway it did extend, ſhewing how many Feet in Length and Breadth it contained, becauſe without ſuch Certainty the Defendant cannot make a Defence, nor the Court judge of the Greatneſs of the Offence, that they may the better ſet a Fine; therefore an Indictment for ſtopping a great Part of the Highway at S. is not good, becauſe of its Uncertainty, for the Place is not ſufficiently ſet forth.

'Tis likewiſe neceſſary to ſet forth, that the Way, wherein the Nuſance was done, is a common Highway, or that it is a Footway to a Church; but then it muſt not ſet forth that 'tis a Footway for all the Pariſhioners of S. but a Footway generally leading to the Church of S.

The meer Erecting of a Dove-Cote, if there be no Doves kept in it, is no Nuſance holden by all the Judges. *Mitch. 14 Fe. 1. B. R. Godb. Rep. 284. Veſey's Caſe.* The contrary was adjudged, *B. R. 16 Fe. 1. in the Earl of Northumberland's Caſe, reported in Pop. Rep. 141. Cro. Fe. 490. Roll's Rep. 2.*

### Oaken Trees and Bark.

**N**O Perſon ſhall engroſs any Oaken Bark with Intent to ſell the ſame again, on Forfeiture of the Bark or Value. No Perſon ſhall ſell any Oaken Trees fit to be barked where Bark is worth a Cart-Load, over and above the Charge of Barking and Piling (Timber only excepted, for neceſſary Reparations and Buildings of Houſes, Ships, &c.) but between the firſt of April and the laſt Day of June, on Forfeiture of every ſuch Oaken Tree, or double the Value thereof. No Perſon whatſoever ſhall uſe for the King's Uſe, &c. (except as before excepted) any Oaken Trees fit to bark, but in Barking-time, &c. on Forfeiture of 40 s. for



for every Tree, Lops, Tops, &c. to Party grieved. Forfeiture to be divided into three Parts, King, Prosecutor, and to the City, &c. or Lord of the Liberty, where Offence committed. Determination at Quarter-Sessions.

## Oaths.

An Oath, what.

**A**N Oath here is a solemn Calling or Appealing to God Almighty as a Witness of the Truth of what we affirm or deny, in the Presence of those who are duly authorized to administer it to us; and 'tis called Corporal, because in taking it the Party is obliged to lay his Hand on and to kiss the holy Gospel. For in this Kingdom none can or ought to administer an Oath but those who are warranted by legal Authority of the Common or Statute Law; and therefore 'tis that our Statutes do so often give Power to Justices of Peace to administer Oaths. 2 *Inst.* 479. 719.

Who may administer it.

Where binding.

Where not.

Wherefore if an Oath be imposed on a Man by those who have no legal Authority, or it be taken before a Magistrate who hath no Authority to administer it, 'tis void. But if it be voluntary in a spiritual Matter, and false, viz. If a Woman swear to marry a Man, and doth it not, she may be punished in the Ecclesiastical Court *pro latione fidei*. *Cro. Eliz.* 469, 470. *Knight vers. Rushworth.*

When Peers are sworn; when not.

Peers are sworn as Witnesses for Proof; but when they are the Defendants, they answer upon their Honour. *Fenes* 154. The Earl of Lincoln's Case.

Oaths of Allegiance and Supremacy abrogated.

The Oaths of Allegiance and Supremacy were enjoined by 1 *Eliz.* and 3 *Jas.* 1. See by whom, and before whom they were to be taken. 1 *Eliz.* cap. 1. 5 *Eliz.* cap. 1. 3 *Jas.* cap. 4, 5. 7 *Jas.* 1. cap. 6. *Vid. Title Recusants.*

Co. 12. Rep. 132.

Justices of Peace might grant a Warrant to bring any before them, to take the Oath of Allegiance.

The Lord *Vaux* was indicted on the Statute 3 & 4 *Jas.* 1. for not taking the Oath of Allegiance; and being convicted on his own Confession, had Judgment of *Præmunire*.

But the Oaths of Allegiance and Supremacy were abrogated by Stat. 1. *W. & M.* cap. 8. and new Oaths appointed; and by the several subsequent Statutes of

1 *W.*

7 W. 3. 12 W. 3. c. 2. 13 & 14 W. 3. 4. 6. 1 Ann. c. 22. & 4 Ann. c. 8. 6 Ann. c. 14. 8 Ann. c. 14.

Several Alterations and Regulations have been made, but the last Act was made 1 Geo. cap. 13. by 1 Geo. c. 13. which all Persons in Place, Peers and Commoners, all Lawyers, Attornies, all Preachers and Teachers, &c. except Constables, all Persons teaching School, or reading to Pupils in Universities, Heads of Colleges, &c. shall take the Oaths hereafter mentioned, viz.

*I A. B. do sincerely promise and swear, &c.*

*I A. B. do swear, that I do from my Heart abhor, &c.*

*I A. B. do truly and sincerely acknowledge, &c.*

All which see in the Beginning of this Treatise, p. 8. and 9.

N. B. By Stat. 7 & 8. W. 3. it is a *Premunire* for any Lawyer to practise after 25 May, 1696. not having before taken the Oaths, and made and subscribed this Declaration.

*I A. B. do declare, that I do believe that there is not any Transubstantiation in the Sacrament of the Lord's Supper, or in the Element of Bread and Wine, at or after the Consecration thereof, by any Person whatsoever.*

By 1 Geo. c. 13. aforesaid, all Persons, on taking 1 Geo. c. 13. the said Oaths, must subscribe their Names, or make their Mark, and all Persons at Eighteen Years of Age may be offered the said Oaths. All Persons within Three Months after taking a Place or Business upon them, must take the Oaths at *Westminster* or *Quarter-Sessions*. Not to extend to Persons beyond Sea, provided taken within three Months after Return; for Neglect or Refusal, forfeit their Office or Employment. Any acting after such Neglect, or, &c. on Conviction, shall be disabled to sue, or be Guardian, Executor, &c. and incapable of any Legacy, &c. or to vote at Elections, besides the Sum of 500 l. to him who will sue for the same at Sessions or *Westminster*; 2 s. for administering the Oath. Two Justices, or Persons especially commissioned by his Majesty, &c. may tender the Oaths to any suspected Person to be dangerous or disaffected, &c. Refusal of taking the Oaths must be certified to *Quarter-Sessions*, &c. and there recorded and certified into Chancery or King's Bench; such Person shall be adjudged a Popish Recusant Convict,

vid, and so be proceeded against as such. Two Justices, or, &c. may summon any Persons to appear before them at a certain Day and Time, to take the Oaths. Persons so summoned refusing, Proof on Oath of such Summons being served, Justices must certify the same to next Quarter-Session to be entered as aforesaid. Persons neglecting to take the Oaths at Quarter-Sessions, the Names of the Persons so certified being publicly read at the said Sessions, after that such shall be adjudged Popish Recusants Convict, and be proceeded against as such, as before. See *Penalty on Heads of Colleges neglecting to take such Oaths, &c.* Persons disabled recapacitated to enjoy again Places, &c. upon taking the Oaths, unless such Places &c. are disposed of. Peers and Commons in Parliament must take the Oaths, and on Neglect must suffer as before.

Exceptions for Offices of Inheritance where Persons concern'd appoint a Deputy, not to extend to the Office of Tithingman, Overseer of the Poor, Churchwardens, Surveyors, or any the like inferior Civil Office, or to Game-Keepers, Park-Keepers, &c. Oaths in this Act to be taken in lieu of former Oaths. Persons having Places in *Ireland* may take the Oaths in *Great Britain*, to qualify themselves to continue or enter on such Places, before one of the Barons of the Exchequer.

5 & 6 W. & M.  
c. 11.

By 5 & 6 W. & M. cap. 11. every Contributor having an Annuity for Life, or Lives, &c. and his or her Executors, &c. demanding Money, must either produce a Certificate of the Life of the Nominee, signed by the Minister or Churchwardens of the Parish,

Or make Oath of the Life of such Nominee, upon the Day of Payment, before one or more Justices of the County, City, or Town where such Person, at the Time of the making Oath, shall reside. Dissenters are bound to take the Oaths above-mentioned, and to subscribe the Declaration mentioned 30 Car. 2.

Justices in Sessions are to tender and administer the Oaths to Persons who shall offer themselves.

Those Dissenters who scruple taking any Oaths, must make and subscribe a Declaration of Fidelity, and likewise a Profession of their Belief. 1 W. & M. cap. 18.

The





Power to appoint Rites and Ceremonies not contrary to the Word of God, and private Persons are bound to conform to them; the 35th Article, which concerns the Reading Homilies in Churches; and the 36th Article, which relates to the Consecration of Bishops, &c.

What Anabaptist Preachers.

And Anabaptist Preachers shall enjoy the same Advantages as Dissenting Ministers, if they subscribe the Articles of Religion, excepting that Part of the 27th Article which relates to Infant-Baptism.

Quakers Affirmation.

By Statute 7 & 8 W. 3. the solemn Affirmation of the Quakers is to go for an Oath; as, that I A. B. do declare in the Presence of God the Witness of the Truth of what I say, &c. But by the Stat. of 8 Geo. c. 6. this is altered into this Form, viz. I A. B. do solemnly, sincerely and truly declare and affirm, &c. And if what he affirms be false, he is liable to the same Punishment as other Persons in Cases of Perjury. But no Quaker shall be permitted to give Evidence in any criminal Cause by Affirmation, or serve on Juries, or bear any Office or Place of Profit in the Government.

An Offender shall not be examined upon Oath; *nemo tenetur prodere seipsum*, but in Cases of Felony the Information of Witnesses ought to be on Oath; otherwise it cannot be given in Evidence. Cro. 193. Dalt. 411.

Oath of being robbed, &c. may be taken by a Justice of Peace out of the County. 1 Cro. 213.

Quere, If Justices of Peace may examine upon Oath Sureties of their Sufficiency; Justices of Peace in their Sessions may do it. Dalt. 275. Cro. 195.

Oath may be required of a Buyer of a Horse stolen, what Money he paid, that the right Owner, upon paying it, may have his Horse again. 31 Eliz. c. 12.

No Person to scruple to take an Oath.

By Statute 13 & 14 Car. 2. no Person may maintain that the Taking of an Oath in any Case whatsoever (tho' before a lawful Magistrate) is unlawful, and contrary to the Word of God; nor may wilfully refuse to take an Oath by the Laws of the Land, being duly tendred; nor may persuade any other to forbear the Taking of the same so tendred; nor go about by Printing, Writing, or otherwise, to maintain that the Taking of an Oath in any Case whatever is unlawful, upon the Penalty of Five Pounds for the first Offence, as in the Case of Quakers. 13 & 14 Car. 2. c. 1.

N. B. Quakers are exempted from the Penalties of this Act, per 1 W. & M.

Oath ex Officio abolished.

No Ecclesiastical Judge or Officer may now impose the Oath ex Officio, or any such like Oath, upon any one at this Day. 13 Car. 2.

Perjury

Perjury is cognizable in the Sessions by 5 Eliz. cap. 9.

It has been made a *Quere*, Whether, when the Oaths are tendred, to make a Man a Refuser, they should not be formally tendred, viz. by having the Oath and the Bible before him. And it seems therefore, that if one authorized to give it shall only ask one bound to take, whether he will take it, and not tender the Book to take it, that this is not sufficient; and *quere*, if he should not have Time to read it, or to hear it read.

The two next Justices (*Quorum unus*) to administer an Oath to the Sheriff, or Returning Officer, upon his delivering over to the Clerk of the Peace the Poll-Books of the Election of Knights of the Shire within 20 Days after the Election, that he has delivered over all the said Books without Embezzlement or Alteration; or where there are more Clerks of the Peace than one, the original Books to one, and attested Copies to the rest. 10 Ann. c. 23.

A Certificate for one who hath taken the Oaths, and subscribed the Declaration, 1 W. & M. c. 8.

Middl. ff. **T**H E S E are to certify, that J. L. of the Parish of C. in the County aforesaid, Esq; came before his Majesty's Justices of the Peace at the Sessions held at H. &c. on Thursday, &c. and then and there, before the said Justices at the said Sessions, did take the Oaths mentioned in a Statute made in the first Year of the Reign of the late King William and Queen Mary, intituled, An Act for abrogating the Oaths of Allegiance and Supremacy, and appointing other Oaths; and did likewise then and there make and subscribe the Declaration mentioned in a Statute made in the 25th Year of the Reign of the late King Charles the Second, intituled, An Act for preventing Dangers which may happen from Popish Recusants; and that what he did then and there concerning the same is register'd, according to the Direction of the Act first above-mentioned.

Signed, &c. Dated, &c.

C. D. Cler. Pa.

For all Sorts of Forms of Oaths, see the Book of Oaths, and Dalton's Country Justice of Peace.

For the Oath of a High Sheriff and Under-Sheriff, *vid. postea* Title Sheriff.



Here follow the Forms of some Oaths, which some way relate to the Office of a Justice of Peace.

**The Oath to be taken by the Clerk of the Peace in open Sessions, before he enters upon his Office.**

1 W. & M.  
C. 21.

**I** A. B. do swear, that I have not nor will not pay any Sum or Sums of Money, or other Reward whatever, nor given any Bond or other Assurance to pay any Money, Fee or Profit, directly or indirectly, to any Person or Persons whomsoever, for such Nomination and Appointment.

So help me God.

1 W. & M.  
C. 31.

No Custos Rotulorum, or other Person, having the Right of nominating the Clerk of the Peace, shall take any Reward for such Nomination. The Clerk of the Peace, and the Person so taking the Reward, to be disabled to hold their said Places, and shall each of them forfeit double the Value of the Reward so given, or taken; to be recovered by him that shall sue for the same by Action of Debt, &c.

**The Oath of a Coroner.**

**Y**OU do swear that you well and truly shall serve our Sovereign Lord the King, and his Liege People, in the Office of a Coroner, and as one of his Majesty's Coroners of this County of K. and therein you shall diligently and truly do and accomplish all and every Thing and Things appertaining to your Office, after the best of your Understanding, Wit and Power, both for the King's Profit and the Good of the Inhabitants within the said County, taking such Fees as you ought to take by the Laws and Statutes of this Realm, and no otherwise.

So help you God, &c.

**The Oath of a Commissioner of Sewers.**

32 H. 8. c. 5.  
13 & 14 Ed. 6.  
c. 8.  
3 Jac. 1. cap.  
14.  
Coke, Institut.  
4. p. 275.

**Y**OU shall swear, that you, to your Understanding, Wit, and Power, shall truly and indifferently execute the Authority to you given by this Commission of Sewers, without any Favour, Affection, Corruption, Dread or Malice, to be born to any manner of Person or Persons: And, as the Case shall require, you shall consent and endeavour your self, for your Part, to the best of your Knowledge and Power, to the making

making of such wholesome, just, equal and indifferent Laws and Ordinances, as shall be made and devised by the most discreet and indifferent Number of your Fellows being in Commission with you, for the due Redress, Reformation and Amendment of all and every such Things as are contained and specified in the said Commission: And the same Laws and Ordinances, to your Understanding, Wit and Power, cause to be put in due Execution, without Favour, Dread, Malice or Affection.

So help you God, &c.

**The Oath of an Excise-man.**

(With this must be taken the Oaths mentioned in 1 Gul. & Mar. cap. 8.)

**Y**OU shall swear to execute the Office of (name the <sup>12 Car. 2. c.</sup> Place) truly and faithfully, without Favour or Affection, and shall from Time to Time true Account make, and deliver to such Person or Persons as his Majesty shall appoint to receive the same; and shall take no Fee or Reward for the Execution of the said Office, from any other Person than from his Majesty, or those whom his Majesty shall appoint in that behalf.

<sup>23, 24.</sup> Two Justices who must certify (the taking of this Oath) to the next Quarter-Sessions, there to be recorded.

**The Oath of a High Constable.**

**Y**OU shall well and truly, according to your Knowledge, Power, and Ability, execute the Office of an High Constable so long as you shall continue in that Office.

**The Oath of a High Constable upon delivering his Presentments.**

**Y**OU shall true Presentment make to the grand Inquest of all Offences and Misdemeanors committed or done within your Hundred, and are in any wise come to your Knowledge, and belong to you now to present without Concealment.

So help you God, &c.

## The Oath of a Petty Constable.

**Y**OU shall swear, that you shall well and truly execute the Office of a Constable (or Borsholder) for the Parish of A. for this next Year, (or half a Year, as the Case is) and until another be sworn in your Room, or you shall be legally discharged thereof.

So help you God, &c.

## The Oath of a Grand Inquest.

**Y**OU shall diligently inquire, and true Presentment make, of all such Matters, Articles and Things, as shall be given you in Charge, as of all other Matters and Things as shall come to your Knowledge, touching this present Service; his Majesty's Counsel, your Fellows and your own, you shall keep secret: You shall present no Person for Envy, Hatred or Malice; neither shall you leave any one unpresented for Fear, Favour or Affection, Reward or Hopes thereof, but in all Things you shall present the Truth, the whole Truth, and nothing but the Truth, to the best of your Knowledge.

So help you God, &c.

## The Jury's Oath.

**T**HE same Oath that your Foreman hath sworn to observe, perform and keep on his Part, you do swear to observe, perform and keep on your Part.

So help you God, &c.

## The Oath of those who shall give Evidence upon Bills of Indictment.

**T**HE Evidence that you shall give to the Grand Inquest upon this Bill of Indictment of A. A. B. shall be the Truth, the whole Truth, and nothing but the Truth.

So help you God, &c.



The Oath of a Juryman upon a Traverse.

**Y**OU shall well and truly try the Issue of this Traverse between our Sovereign Lord the King and A. B. and a true Verdict give, according to your Evidence.

So help you God, &c.

The Oath given to a Juryman upon Life and Death.

**Y**OU shall well and truly try, and true Deliverance make, between our Sovereign Lord the King and the Prisoner at the Bar, whom you shall have in Charge, and a true Verdict give, according to your Evidence.

So help you God, &c.

Every Juror is to lay his Hand on the Book, and look toward the Prisoner.

The Oath of Witnesses.

**T**HE Evidence that you and every of you shall give to the Court and the Jury, for our Sovereign Lord the King against the Prisoner at the Bar, shall be the Truth, the whole Truth, and nothing but the Truth.

So help you God, &c.

The Oath given to a Bailiff or Serjeant that attendeth on any Jury or Inquest at an Assize.

**Y**OU shall well and truly keep every Person sworn of this Inquest together, in some private and convenient Room, without Meat, Drink, Lodging or Fire, Candle excepted: You shall not suffer any Person whatsoever to speak to them, or any of them, until such Time as they be agreed of their Verdict, unless it be to ask them whether they be agreed of their Verdict or no, without Leave of the Court.

So help you God, &c.

The Oath of a Jury of Women returned to try whether a Woman convicted, that pleads her Belly, be Quick with Child, or no.

**Y**OU the Fore-Matron of this Inquest do swear, that you shall search and try the Prisoner at the Bar, whether she be with Child of a quick Child, or no, and thereof a true Verdict give, according to the best of your Judgment.  
So help you God, &c.

To the Rest of the Jury.

**T**HE same Oath which A. B. your Fore-Matron hath taken on her Part, you, and every of you, shall well and truly observe and keep on your Parts.  
So help you God, &c.

The Oath of him who craves the Peace against another.

**T**HE Peace which you require against A. B. is not out of any Ill-will or Malice which you bear to him, but merely to preserve your Life, House, Goods or Chattels, from any bodily Harm or Mischief, which he by himself, or any other by his Procurement, may attempt to do you.  
So help you God, &c.

An Oath to be given upon Examination, or upon Information.

**Y**OU shall true Answer make to all such Questions as shall be demanded of you concerning the Beating of A. B. You shall speak the Truth, the whole Truth, and nothing but the Truth.

So help you God, &c.

The Oath of him that giveth Information.

**T**HE Information that you shall give on the behalf of our Sovereign Lord the King's Majesty against A. B. shall be the Truth, the whole Truth, and nothing but the Truth.

So help you God, &c.

An Oath upon a Leading Question.

**Y**OU shall true Answer make to all such Questions as shall be demanded of you.

So help you God, &c.

An Oath to be taken by all Clerks of the Courts of King's Bench and Common Pleas, Clerks of Assize, Clerks of the Peace, Town-Clerks, Clerks of Sewers, Clerks of the Markets, and others to whom it belongeth to make Returns of Eſtreats into the Exchequer.

4 & 5 Gul. & Mar. c.

**Y**OU shall swear, that these Eſtreats, now by you delivered, are truly and carefully made up and examined, and that all Fines, Issues, Amerciaments, Recognizances and Forfeitures, which were set, lost, imposed or forfeited, and in right and due Course of Law, ought to be eſtreated in the Court of Exchequer, are, to the best of your Knowledge and Understanding, therein contained: And that in the same Eſtreats are also contained and expressed all such Fines as have been paid into the Court, from which the said Eſtreats are made, without any wilful or fraudulent Discharge, Omission, Misnomer or Defect whatsoever.

So help you God, &c.



An Oath to be administred by the next Justice of Peace, (Judge-Advocate or his Deputy) to every Officer present at the Trial of Offenders by Courts Martial, (where the Offence may be punished by Death) before any Proceeding be had thereupon.

**Y**OU shall well and truly try and determine, according to your Evidence, the Matter now before you, between our Sovereign Lord the King's Majesty, and the Prisoner to be tried.

So help you God, &c.

### Richards.

37 H. 8. c. 6.

**B**Y Stat. 37 Hen. 8. cap. 6. they who bark Fruit-Trees forfeit treble Damages to the Party grieved, in an Action of Trespafs.

43 Eliz. c. 7.

By Stat. 43 Eliz. c. 7. Persons unlawfully cutting and taking Corn growing, robbing Orchards, digging up or taking away Fruit-Trees, breaking of Hedges, Pales or other Fences, cutting or spoiling of Woods, Underwoods, or the like Offences; and the Accessories thereunto being lawfully convicted by Confession, or one Witness on Oath, before one Justice, shall pay to the Person grieved, for the first Offence, such Damages as the Justices shall award; if not able to pay, then to be whipp'd by the Constable; and for every other Offence to be whipp'd. Constable neglecting his Duty, to be committed till he does it: In Justice's own Case, he must associate some other Justice with himself.

15 Car. 2: c. 2.

The Prosecution must be in six Weeks by 15 Car. 2. c. 2.

A Warrant against a Robber of an Orchard.

To the Constable, &c.

Essex. ff. **W** Hereas it hath been duly proved before me <sup>\* If the Justice doth not think him able, he may order him to be whipped.</sup> R. B. Esq; one of his Majesty's Justices of the Peace for the County aforesaid, That T. P. of, &c. hath within six Weeks last past, robbed the Orchard of, &c. (or as the Case is) contrary to the Laws in that Case made and provided: I do therefore hereby <sup>\* Like Punishment for an Accessary.</sup> appoint the said T. P. within five Days after Notice hereof, to pay unto the said J. S. 9s. in Recompence and Satisfaction for the Wrong so done, as aforesaid: And if the said T. P. shall not pay the same, that then you inform me thereof, that such farther Proceedings may be had against him for the said Offence, as the Law requireth: And hereof fail not. Given, &c.

Upon Non-payment to be whipped.

To the Constable, &c.

Suffex. ff. **W** Hereas it hath been duly proved before me R. B. Esq; being a Justice of the Peace for the County aforesaid, That, &c. (as in the former Warrant) And whereas the said T. P. hath not paid or discharged the said J. S. for the Damages done to him, the Sum of 9s. by me appointed for him to pay: Therefore I do hereby Order, that the said T. P. be forthwith committed to the said Constable of, &c. to be whipped, which you the said Constable are hereby required to do, or cause to be done, at your Peril. Given under my Hand, &c.

Ordinary.

For his fees. Vide Extortion.

**T**HE Ordinary or his Deputy is not, nor ever <sup>Ordinary or Deputy not</sup> was obliged to attend at Sessions, though he did at Gaol-Deliveries; though when he did attend, he was obliged to attend the Judge (an legit ut Cl'ens vel non): <sup>For tend Sessions,</sup> For the

## Ordinary. Outlawry.

the Court might allow Clergy in Strictness of Law, though the Ordinary or his Deputy be not there. *Cro. i 18. b. Nu. 41. Stamf. 133.*

And if the Ordinary said that the Prisoner could read, when he could not, the Offender should be hang'd, and the Ordinary fined for his Misbehaviour.

A Felon adjudged to be hanged, in failing to read, might, in Favour of Life, have the Benefit of Clergy at the Gallows, which shews the Ordinary's Presence was not always necessary where Clergy was allowed. Yea, one reprieved might pray his Clergy at the next Assizes.

Woman to have Clergy ; and a Man whether he can read or no. 4 & 5 W. & M. c. 9. 5 Ann. c. 6.

But there is now an End of all this by Stat. 5 Ann. c. 6. whereby the Offender is not required now to read ; but whether he can or no, he is to be punished as a Clerk Convict. 5 Ann. c. 6. And by 4 & 5 W. & M. c. 9. a Woman convicted of an Offence for which a Man may have Clergy, shall suffer the same Punishment the Man should, and may be kept in Prison a Year and a Day. 4 & 5 W. & M. c. 9.

## Overseers of the Poor. Vide Poor.

## Outlawry.

Outlawry what.

When a Man is said to be Outlawed.

Outlaw anciently might be killed by any Body.

Not so now.

**T**HIS is when a *Capias*, *Alias* & *Pluries* have been awarded against an Offender who hath not appeared, but the Sheriff returns a *non est inventus* ; then there is a Writ of Exigent made out, directed to the Sheriff to call him, in five successive County-Courts which are held Monthly, requiring him to appear, (but the County-Courts are held oftner in London) and if he do not, then he is Outlawed or Exlex, that is deprived of the Law, and out of the King's Protection.

Which was so great a Punishment, that in old Times he was said to have *Caput Lupinum*, and might have been killed by any who met him ; and this continued till the Time of K. Edward 3. when it was made lawful for none but only the Sheriff to kill him, nor he neither, unless he had a Warrant so to do.

But now Outlawries are become frequent in Personal Actions ; the Effect of which is, viz. Forfeiture of Goods



Goods and Chattels to the King ; and if for Felony, then it is Forfeiture of his Lands, in Fee or for Life, and his Goods, &c.

When a Man is outlawed for Felony, being at-  
tainted by the Outlawry, his Goods are forfeited to  
the King, and his Body at his Disposal ; and there-  
fore it was a Question, Whether such an Outlaw might  
be taken in Execution at the Suit of a Creditor : But  
it was held that he is liable to such Execution ; but  
the Sheriff may chuse whether he will execute it or  
not ; and that if the Law should be otherwise, then  
the Party might take Advantage of his own Default ;  
for he might suffer himself to be outlawed, and then  
get a Pardon and deceive all his Creditors. Moor.  
179. 753. Owen 69.

A Man who held Lands of the King, was out-  
lawed for Murder ; the King seised the Lands and  
gave them to another, and then the Outlawry was  
reversed ; and the Question was, Whether the Person  
might re-enter, or first petition to the King ? And it  
was held that he might re-enter upon the Grantee,  
because there was no Record of Attainder to put him  
on his Petition. 1 Cro. 464.

Error was brought to reverse an Outlawry for Mur-  
der ; the Error assigned was, that *tempore promulgatio-  
nis utlagaria & dia antea & post*, he was beyond Sea.  
It should have been *tempore* of the Exigent award-  
ed ; for if he depart after that Time, and is then  
outlawed, he shall never reverse that Outlawry, be-  
cause he fled from Justice on set Purpose ; but the  
Attorney General confessing the Error, it was rever-  
sed. 1 Cro. 464.

panels

## Panels of Juries.

Panels may be reformed by Justices.

**A**LL Panels of Juries to be returned, which be not at the Suit of any Party, to be made by any Sheriff, &c. before Justices of Gaol-Delivery, or Justices of Peace (*Quor. 1.*) in their open Sessions, to enquire for the King, shall be reformed by Justices at their Discretion; 20<sup>l</sup>. Penalty for Sheriff, &c. not returning the Panels so reformed; to the King and Prosecutor. 3 H. 8. c. 12.

## Pamphlets and News-Papers.

The Stamp-Duties upon Pamphlets.

**B**Y Statute 10 Ann. c. 19. All Papers called Pamphlets, shall for every Half-Sheet pay a Half-penny; if larger than a Half-Sheet a Penny, and if larger than a whole Sheet, and not six Sheets in Octavo, or in a less Page, or not exceeding twelve Sheets in Quarto, or twenty Sheets in Folio, 2<sup>s</sup>. Sterling for every Sheet of Paper in one printed Copy; and for every Advertisement in the *London Gazette*, or other printed Paper made weekly Publick, one Shilling. And they are to be stamped accordingly.

How Offences may be heard and determined.

Offences in printing, selling, or exposing to Sale any Pamphlet, &c. against this Act, may be heard and determined by two or more Justices within their Jurisdiction. At any Time within three Months after the Offence, upon Complaint made, they may summon the Offender and Witness, and may examine them on Oath; or for not appearing, upon Proof of Notice given, may proceed, though the Offender doth not appear, and give Judgment. And if convicted either upon View of the Justice, or upon such Information, may issue Warrants to levy the Penalty of 10<sup>l</sup>. on the Goods of the Offender by Distress and Sale, if not redeemed within six Days; and if such Distress cannot be had, may commit him till the Penalty is paid.

Appeal to Quarter-Sessions.

Those who are grieved may appeal to the next Quarter-Sessions, who may examine Witnesses upon Oath,

Oath, and finally determine, and may then issue Warrants to levy the Penalty.

The Penalty may be mitigated by the Justices; The Penalty but then the Officers and Informers must be allowed may be mitigated their reasonable Costs and Charges over and above gated. the said Mitigation, and so as the Mitigation must not be less than a fourth Part of the Fine, over and above the said Costs and Charges.

Persons sued for putting the Act in Execution, may plead the general Issue, and give this Act and any special Matter in Evidence; and if he recover shall have treble Costs.

Printing a Pamphlet above one Sheet, published Penalty of not within the weekly Bills of Mortality, and not carry-carrying Pam- phlets to be ing it within six Days to the head Office for stamping; stamped. and if printed elsewhere, and not brought to the head Collector of the Stamp-Duties within fourteen Days, the Printer and Publisher shall lose the Profit of the Copy of such Pamphlet for which the Duty is not paid, and shall forfeit 20*l.* with full Costs.

If the Printer's or Publisher's Name is not printed thereon, the Penalty is likewise 20*l.*

One Moiety of these Penalties is to the Crown, the other to the Informer.

But some News-Writers taking Advantage of the Paragraph in the Act 10 *Ann.* wherein for all Pamphlets larger than one whole Sheet, and not exceeding twenty Sheets in Folio 2*s.* for every Sheet of Pa- A Fe'ch of per in one printed Copy, and no more was to be the News- Writers, &c. paid, contrived their News-Papers so as they took up one Whole Sheet and one Half-Sheet, and no more, by which means, they for many Years, paid only 3*s.* for each whole Impression of their News-Papers. Which being taken Notice of in Parliament, a Clause was inserted in a Stat. made 11 *Geo.* whereby all Journals, Mercuries, and News-Papers, printed on one Sheet and Half a Sheet of Paper, shall not for the future be deemed or taken as Pamphlets, to be entered, and pay only 3*s.* for each Impression thereof; but there shall be paid for every Sheet of Paper on which any Journal, Mercury, or other News-Paper whatsoever shall be printed, a Duty of one Penny; and for every Half-Sheet thereof one Half-Penny, during the Term mentioned in the Act 10 *Ann.* to be levied in the same Manner, and subject to the same Penalties, &c. as in the said Act of 10 *Ann.* or any other Act relating to those Duties, is contained.



## A Warrant to levy the Penalty by

10 Ann. c. 19.

To the Constable, &amp;c.

10 Ann. c. 19.

**W**HEREAS Complaint hath been made unto us whose Names are subscribed, two of his Majesty's Justices of Peace for the said County, that R. G. of, &c. did on the 19th of Aug. last past at D. in the said County, expose to Sale one Sheet of Paper commonly called a Pamphlet, not being stamp'd as it ought to be by Law; and the Duty not being paid for the same: We thereupon did summon the said R. G. to appear before us at, &c. on Wednesday the 20th of Aug. aforesaid, where he did appear accordingly, and was then and there convicted upon the Oath of J. S. of, &c. of the said Offence; by Reason whereof he hath forfeited 10l. according to the Statute in that Case made and provided: Which said Sum of 10l. we did mitigate to 5l. besides the Sum of 10s. which we did allow to the said J. S. for his reasonable Costs and Charges in that behalf: These are therefore to require you forthwith to levy the said Sums of 5l. and 10s. by Distress of the Goods of the said R. G. and if the same are not redeemed within six Days after the said Distress taken, that then you sell the same, rendering the Over-plus to the said R. G. if any such shall be, after reasonable Costs and Charges first deducted; and that you pay 10s. Part thereof to the said J. S. and one Moiety of the remaining 5l. to the King, and the other Moiety thereof to the said J. S. who first informed us of the said Offence. Given, &c.

Papists. See Recusants.

Partridge. See Game.

## Parchment.

Two Justices  
to determine  
Complaints  
about Parch-  
ment.

**C**OMPLAINTS being made about seizing Parchment, may be heard and determined by two Justices, but an Appeal lies to Quarter-Sessions. 5 W. & M. c. 21. 8 & 9 W. 3. c. 6. 4 Ann. c. 7. 9 Ann. c. 11. 10 Ann. c. 13. 12 Ann. c. 2.

Pardon.

## Pardon:

**A** Pardon is either { 1. Of Course, or,  
2. Of Grace.

Pardon is granted of Course, where a Man is convicted of Homicide, *se Defendendo*, or by Chance-Medley; for which see in Tit. Homicide. Stat. Glouc. c. 9.

Pardon of Grace is either { 1. General, or,  
2. Special.

By the Law of God, no Recompence was to be taken for the Life of a Murderer, who purposely hath committed Murder, but he shall surely be put to Death; *Thou shalt take him from my very Altar, that he may dye*, saith God: *For Blood defileth the Land, and the Land cannot be cleansed of the Blood that is shed therein (by wilful Murder) but by the Blood of him who shed it.* Num. ch. 35. ver. 31. 33.

None have Authority to pardon any Treason, Murder, or other Felony, or any Accessary to the same, save only the King, it being one of his Royal Prerogatives. By the Law of God, no Pardon for Murder.

Note, if he which hath a Pardon for Felony, *ita quod se bene gesserit versus cunctum populum D'ni Regis*, if afterwards he shall break the Peace, such be holden for none, but that he may be hanged, notwithstanding his Pardon. 10 Ed. 3. c. 3. 3 & 5 H. 7. 7. None can pardon Treason, Murder, &c. but the King.

One Cole was convicted of Burglary, and pardoned, *ita quod bene se gesserit* towards all People: Afterwards he broke the Peace by beating another Man; and this being suggested to the Court, Execution was prayed against him; and the Clerk of the Crown informed the Court that one Whiddon was hanged in the Queen's Reign for the same Cause, after a Pardon; but it is not said what Rule was made in the principal Case. One pardoned conditionally, may be hanged afterwards.

Two Men were beating a third in the Street, and a Stranger passing by said, it was a Shame for two to beat one; whereupon one of them ran to the Stranger in a furious Manner, and with a Knife, which he held

Case of Murder.

held in his Right Hand, gave him a mortal Wound, of which he died; and both the other being indicted at the Sessions in the *Old Bailey* 9 Geo. as Principals in the said Murder, the Judges who were then present, were of Opinion that one of them would be neither Principal or Accessary to the Murder, because it did not appear that he intended any Injury to the Person who was killed. It is true, both of them were doing an unlawful Act, but the Death of the Party did not ensue upon that Act; so one was acquitted, and the other found Guilty of Murder.

What is a general Pardon.

A general Pardon is that which is given in Parliament to all Men generally, or with Exceptions to some few Persons. And of this general Pardon the Court ought *ex officio*, and of Duty, both to take Notice and give Allowance, tho' the Party neither plead it, nor will accept the Benefit of it. But if the Pardon make special Exception of some Persons, then must the Prisoner alledge that he is none of those who be excepted, unless the Act it self does say that he shall take Advantage by it, without any such pleading. 11 H. 4. 39. *Stanf.* 103. *Lamb.* 536. *Hob.* 67. 3 *Inst.* 233.

A Servant who had killed his Master, was indicted for Murder without the Word *proditorie*, and was thereupon arraigned and found Guilty. But because the Offence was really Petit Treason, and Petit Treason was then pardoned by the Parliament (5 *Eliz.*) tho' Murder were therein excepted, Justice *Welsb* thought fit to reprieve the Prisoner, without giving Judgment upon him. *Dyer* 235. *Lamb.* 536.

Case of general Pardon.

A Man struck another in Feb. (13 *Eliz.*) whereof he died in June next following, in which mean while all Felonies, Offences, Injuries, and Misdemeanors, were pardoned by Parliament; and he was discharged by that Pardon, because the Stroke was the Offence against the Queen; and that was past and pardoned, though a Death did afterwards ensue upon it. *Plowd.* 421. *Lamb.* 537.

One that had committed Manslaughter, was indicted of Murder, and thereupon Outlawed; afterward the Parliament pardoneth all Offences, &c. except Persons Outlawed or Attainted of Murder, the Party reverseth the Outlawry, and then is arraigned of Manslaughter; and it was much doubted whether he should be discharged by the Pardon; because Persons Outlawed were excepted: Whereas if the

Offences



Offences only had been excepted, it would have made no great Question. 29 *Eliz. Crompt. Lamb. 537.*

A Special Pardon ought to be pleaded under the great Seal of England, for that Authority, which some Subjects in ancient Time had to grant Pardon, is resumed by the Statute 27 *H. 8. c. 24.*

And with this Pardon the Party ought to bring a Writ of Allowance, testifying that he had found a Writ of Allowance, unless a Clause of Non obstante inserted therein.

If the Pardon do agree with the Indictment, as well in the Name, Surname and Addition of the Party, as also in the Point of the Offence that is to be pardoned; then is there nothing to be said against it. But if the Pardon be of all Felonies, that will not discharge him of Petit Treason, nor Murder at this Day, (except it contain them in special Words) although at the Common Law before the Statute 13 *Ri. 2. Stat. 2. c. 1.* such a Pardon was available enough for them. *Dalt. 348. Cro. 21. 6 Co. 13.* Cases on Special Pardon.

Neither is such a Pardon sufficient to save the Life of a Man that is attainted of Felony, unless it have Words to pardon the Attainder and Execution. *Cro. 115. Dalt. 348. 6 Co. 13. 9 Ed. 4. 29.* No more than a Pardon of the Attainder and Execution will deliver him, without Words to pardon the Felony it self. 8 *H. 4. 22.* So where the Party is abjured for the Death of a Man, the Pardon must of Necessary carry Words of Abjuration. *Coron. Fitzb. 124. Lamb. 537.*

If the King do pardon a Gaoler, the Escapes of Prisoners being in his Custody for Felony or Treason, that shall extend to negligent Escapes only, and to none other. *Fitzb. 37.* So if he pardon two Men, all Felonies done by them or any of them, that will not serve them apart; because the first Words be joint, and not several. Whereas all Felonies be of themselves several. 22 *Ed. 4. 7.* For in all these and the like Cases, however the Favour of Life may require a large Interpretation; yet forasmuch as the Offence is against Law, the Grace and Dispensation of the Prince may not be strained beyond the Words. *Lamb. 537.*

A Pardon for not repairing a Bridge or Highway, may discharge the Fine; but the Offence remains.

for which the Party is chargeable at the Suit of a Subject. 12 Co. 30.

When there is no Day in Court to plead a Pardon, the Court will not allow it. 3 Cro. 4.

Prisoner pleadeth a Pardon, the Justice of Peace, in the Absence of the King's Attorney, may join Issue, that he is one of the Persons excepted. Lamb. 540. Stampf. 103.

For General Pardons have now so many Qualifications, Restrictions and Exceptions, both as to Offences and Persons, that the Court cannot take Notice of them without being pleaded; and in the Plea the Defendant must aver, that he is none of the Persons excepted; a Form of which Plea you may see, 3 Inst. 234.

Offence must  
be specified in  
the Pardon.

By Statute 13 Rich. 2. cap. 1. 'tis enacted, That the Offence shall be Specified in the Pardon, otherwise it shall not be allowed; and since that Time it hath been held, that a General Pardon for Murders or Robberies is not good, without reciting the Indictment and Verdict in the Pardon itself. Moor 752. Sid. 366. 430.

Mr. Howard's  
Case.

Mr. Howard was convicted of Murder, and being brought to the Bar, pleaded the King's Pardon, in which all the Proceedings on the Indictment were recited; and that the King pardoned the Killing and Felony, but the Word *Murdrum* was not in the Pardon, and there was no Writ of Allowance; whereupon Mr. Howard was advised to get a better Pardon, otherwise this might be repealed by *Scire Facias* seven Years hence, and he might be executed; and afterwards he had a better Pardon and Writ of Allowance. Raim. 131.

No Appeal will  
lie for Murder  
after a Pardon  
for Treason.

Anno 31. Hen. 8. it was made Treason for a Wife to poison her Husband; and soon after a Woman poison'd her Husband, and was pardon'd; her Son brought an Appeal of Murder; and it was adjudg'd it did not lie, because they were two different Offences; and the Offence being made Treason, could not be punish'd as Murder. Dyer 50.

In Cases of Treason the Court may allow a Pardon without a Writ of Allowance, but not so in Felony; and therefore, where a particular Pardon is pleaded, it must be *sub Magno Sigillo*, and it ought to have a Writ of Allowance; unless there be inserted a Clause of *Non Obstante*, for that dispenses with that Writ. Cro. Eliz. 314.

Sir *Walter Raleigh* was attainted of Treason, 1 *Jd.* 1. Sir *Walter Raleigh's* Case. and kept Prisoner twelve Years, and then the King gave him a Commission to make an Expedition to *Gayana*, and Authority to execute Martial Law, and Power over the Lives of other Men; he went thither, and return'd unsuccessful; and on his Return was brought to the Bar, and had Sentence and Execution upon the Attainder; tho' he insisted that his Commission, giving him Power over the Lives of other Men, was a Pardon by Implication; but the Court answer'd, that no Man must be pardoned but by exprefs Words, and not by Implication. 2 *Cro.*

Not only the Punishment, but the very Guilt is taken away by a Pardon; so that a Man is restored to his Credit, and enabled to be a Witness, tho' he hath been convicted of Felony; but it seems otherwise if the Conviction had been for Perjury. 1 *Ventris* 349.

Being burnt in the Hand upon a Conviction of Felony, is in Nature of a Pardon; for by this Punishment he is cleared of the Offence, and is become a lawful Witness. *Raym.* 370.

Nothing vests in the King till Inquisition found, and therefore a Pardon before an Inquisition found discharges all Forfeitures. 2 *Mod.* 53.

But where once an Interest is vested, a Pardon will have no Effect upon the Goods forfeited, without some Words of Restitution. *Sid.* 168.

A Pardon is no Bar to an Appeal, nor to an Execution, if the Offender be attainted and pardoned of Felony only.

By a Statute made 2 & 3 *Ann.* as soon as the Judge receives a Warrant under the Sign Manual of the King for a Pardon, he may direct his Warrant to the Sheriff or Gaoler, directing the immediate Delivery of such Prisoner out of Custody to such Officer as he shall be list'd under, to serve the King either in the Army or Navy; and the Pardon when passed shall be entred and enrolled.

About the latter End of King *Charles* the Second's Reign, in the Case of one *Parsons*, who had a Pardon for Murder, it was argued by Counsel in B. R. that the King could not pardon Murder; and because it could not be proved by the Law of *England*, therefore Recourse was had to the Scripture, which says, *He who sheddeth Man's Blood, by Man shall his Blood be shed*, Gen. ix. 6. But this Text must be taken in a limited Sense,



Arguments for  
it.

and not as universally binding, no more than that of *Thou shalt take no Satisfaction for the Life of a Murderer; who is guilty of Death, he shall surely be put to Death.* For besides the Case of common Executions and many others, wherein it is not only lawful, but absolutely necessary to shed Man's Blood, it's plain this Precept was Part of the Judicial Law, and, as such, binding only on the *Jews*; but the Ceremonial and Judaical Laws being abrogated ever since the Death of Christ, or, at farthest, the Destruction of *Jerusalem* by the *Romans*, when the Jewish Commonwealth and Government were totally ruined and destroyed, the Obligation of that Law has ceased ever since.

'Tis true, God saith, that a *Murderer shall surely be put to Death*; and 'tis as true that, in another Place, he says, that *whosoever doth any Work on the Sabbath, he shall surely be put to Death*; and yet no Man will affirm, that the King cannot pardon those who work on the Sabbath.

'Tis therefore certain, that neither the divine nor human Law hinders the King from pardoning Murder; and it may often happen that (upon due Consideration of the Person, Times and other Circumstances) a Pardon may be as effectual to attain the good Ends intended by a Punishment, as any rigorous Execution of it might have been; and in such Cases the King is the supreme Judge.

Parliament.

## Parliament.

**T**HE Levying of the Expences of Members coming to Parliament, viz. the Knights 4 s. and the Burgesses 2 s. a Day, hath been from old Time; for I find so long ago as 12 R. 2. c. 12. an Act, that the Levying the Expences of Knights coming to Parliament should be made as in Times past.

By Stat. 23 H. 6. c. 11. the Sheriff in the next County Court, after he hath received the Writ, shall make Proclamation, &c. and then in full County shall assess every Hundred by it self, and every Town in each Hundred by it self; and the Sheriff or other Officer who levies more than is so assessed, shall forfeit 20 l. to the King, and 10 l. to the Prosecutor.

Justices of both Benches, Justices of Assize, Gaol-Delivery and of the Peace, have Power to hear and determine these Abuses, as well at the Suit of the King as for the Party.

By Stat. 35 H. 8. c. 11. two Justices in each of the twelve Counties in Wales and in Monmouthshire, may tax every City and Borough therein towards the Wages of the Members of Parliament, &c.

By Stat. 9. Ann. the Oath appointed to be taken by Candidates may be administered by the Sheriff or Under-Sheriff, or other Officer to whom it belongs to take the Poll or make the Return, or by any two Justices of the Peace, who are to certify the same to the Chancery or B. R. within three Months afterwards, under the Penalty of One Hundred Pounds; one Moiety to the King, and the other to the Informer, for which no Fee shall be taken but 1 s. for the Oath, 2 s. for the Certificate, and 2 s. for filing it, under the Penalty of 20 l.

Every Candidate shall, at the reasonable Request of any other Candidate, at the Time of the Election, or of two or more Persons who have a Right to vote, take the following Oath.

## The Candidate's Oath.

**I** A. B. do swear, that I truly and bona fide have such an Estate in Law or Equity to and for my own Use and Benefit, of or in Lands, Tenements or Hereditaments (over and above what will satisfy and clear all Incumbrances that may affect the same) of the annual Value of Six Hundred Pounds above Reprieves, as doth qualify me to be elected and returned to serve as a Member for the County of according to the known and true Meaning of the Act of Parliament in that Behalf; and that my said Lands, Tenements, or Hereditaments are lying or being within the Parish, Township or Precincts of in the said County of or, in the several Parishes, Townships, or Precincts of in the County of as the Case may be.

Must be a Freehold or Copyhold Estate.

Act does not extend to a Peer's eldest Son.

These must be either Freehold or Copyhold Lands, and the Person must be entitled to them for Life, or a greater Estate; and every Citizen and Burgess is to have 300 l. per Ann. or his Election shall be void.

This Act doth not extend to the eldest Son of a Peer, or of a Person qualified to serve as a Knight of a Shire to make him incapable, &c. nor to the Universities.

A Mortgagee shall not be capable, unless he hath been in Possession seven Years before the Election.

By the Statute 10 Ann. c. 23. every Freeholder before he is admitted to poll, shall, if required by the Candidates, take this Oath.

## Freeholder's Oath.

**Y**OU do swear, that you are a Freeholder in the County of and have Freehold Lands or Hereditaments, lying or being at in the said County, of the yearly Value of 40 s. above all Charges payable out of the same; and that such Freehold Estate hath not been made or granted to you fraudulently, on purpose to qualify you to give your Vote, and that the Place of your Abode is at in the said County, and that you have not been polled before at this Election.

This Oath is to be administered by the Sheriff, Under-Sheriff or sworn Clerk by him appointed to take the



the Poll; and the Returning Officer shall, within twenty Days after the Election, deliver over to the Clerk of the Peace all the Poll-Books on Oath, made before the two next Justices of Peace, *Quorum unus, &c.*

By Stat. 1 Geo. 2 56. no Person having any Pension from the Crown, shall be capable of being elected a Member of Parliament, or of sitting or voting as such. In Case any such Person shall presume to sit or vote in that House, he forfeits 20*l.* for every Day he shall sit and vote there, to him who will sue for the same in any of the Courts at *Westminster*, by Action of Debt, with full Costs of Suit.

None having Pensions can be chosen, or sit as a Member.

## Partition of Lands.

BY Statute 8 & 9 W. 3. c. 31. two Justices must be present at the Under-Sheriff's Executing a Writ of Partition, when the High-Sheriff, by Reason of Distance, Infirmary, or any other Hindrance, cannot be there present; and such Partition being made, return'd and fil'd, shall stand good.

Two Justices must attend Under-Sheriff in making Partition.

In case the High Sheriff cannot be present at Partition, &c. all Justices of the Division must attend or shew Cause, on Oath, for being absent, to be allow'd by Court of, &c. or may be liable to pay Costs, &c. to Demandant, not above 5*l.*

This Act at first was temporary, but by Stat. 3 & 4 Ann. cap. 18. it was made perpetual.

**Partridge.** See Game.

**Party-Walls.** See Fire.

**G 4 Peace.**

## Peace. See Good Behaviour.

**E**Very private Person that shall be present at any Affray, Assault or Battery, ought to part them that fight, and may stay them till their Heat be cooled; but they may not imprison them, unless the one of them be in Peril of Death by some Hurt, for then any Man may carry the other to the Gaol, till it be known whether the other will live or die. *Lamb. 131. Dalt. 33.*

Justice may record an Affray done in his Presence. If any Affray, Forcible Entry, or any thing in Disturbance of the Peace, be done in the Presence of a Justice of Peace, he may record it, and certify the same, and commit the Parties presently. *Dalt. 144.*

Offender fined in B. R. on Justice's Certificate. If the Justice of Peace certify into the K. B. that A. B. hath broken the Peace, upon that Certificate, A. B. shall be there fined, without allowing him any Traverse. *Dalt. 144. 2 Cro. 132.*

What are Breaches of the Peace. All Affrays, Assaults, injurious and violent Handlings and Battery, Strikings, Imprisonment without Warrant, thrusting one into the Water, &c. are Breaches of the Peace; and for these, and such as these, a Man may be bound to keep the Peace, and be indicted and fined.

Surety of the Peace is the Acknowledging of a Recognizance to the King, taken by a competent Judge of Record for the keeping of the Peace.

Where a Justice may bind to the Peace, &c. A Justice of Peace may, of his own Authority, Motion and Discretion, bind a Man to the Peace, and that against all the King's Subjects, if he thinks fit.

1. Where an Assault is made upon the Justice himself.
2. When an Assault is made upon another in his Presence.
3. If one in his Presence threaten another, &c.
4. For Contention in hot Words in his Presence.
5. If one not authorized go armed offensively, or with an unusual Number of Servants, &c. or Servants or Labourers bearing Weapons, against the Statute of 12 Ri.
6. He may bind any Person by him suspected to be endeavouring to break the Peace.
7. A Person brought before him by a Constable, who had made an Affray, &c. in his Presence.
8. A Person, who goes about to break the Peace in the Constable's Presence,

or

or assaults him, may be carried by the Constable before the Justice, who may bind, &c. 9. He may at his Discretion convene before him a Person who had broke the Peace (tho' not in his Presence) and command Sureties of him. 10. He may upon his Discretion bind to the Peace a common Barretor. 11. So of Rioters. 12. If one bound break the Peace, the Justice ought to bind him anew; but it seems not till after Conviction upon the first Recognizance. 13. Any Justice may for the Insufficiencies of the Sureties, compel one bound to the Peace to find better. *Dalt.* c. 70.

One fearing that another will burn his House, may demand the Peace against him, but not he that is threaten'd to be imprisoned, or to have his Goods burnt.

It seems likewise the Peace shall not be granted for the Master's Fear that another will hurt his Servant, &c. or for that he is at Suit or Variance with his Neighbour. *Lamb.* 85.

When the Peace is granted, upon Request, there must be an Oath made by the Party desiring it, That he stands in Fear of his Life, or some bodily Hurt, or the Firing of his House by him against whom he desires it, or by his Procurement; and that he desires the Peace against him, not out of Malice or Hatred, but out of very Fear from his threatening to do it, or procuring it to be done, or otherwise. *The Peace must be granted upon Oath made, &c.*

And it is held, that the Justice may not bind to the good Behaviour, nor commit to Prison, for Refusal to give Surety upon a general Accusation, without some Particulars. *Pasch.* 23. *Car.* 2. *B. R.*

If he which is bound to the Peace break his Recognizance, he may be indicted for it, for it is a new Offence. *Style* 369.

A Person said to be a Member of the House of Commons, bound in a Recognizance of 500 l. to keep the Peace, for challenging one of the Queen's Witneses in an Indictment for Treason; and because the Witnes had accepted the Challenge, he was bound in the same Sum. *2 Vent.* 317. *Two bound for challenging one another.*

The Warrant of a Commitment for not finding Sureties for the Peace, ought to express in what Sum the Person is required to find Sureties; otherwise it may be so excessive, that any Person may be constrained to remain in Prison. *2 Vent.* 22. *2 Leon.* 184. *Warrant ought to express what Sum is required.*



## A Warrant to find Sureties for the Peace.

To the Constable, &amp;c. And to the Keeper of, &amp;c.

34 Edw. 3. c. 1. Essex. ff. **F**Orasmuch as A. B. of C. hath this Day taken his corporal Oath before me, that C. D. of, &c. and hath therewithal prayed Surety; That he is afraid that A. B. of C. will beat, wound, maim, kill him, or burn his House; That A. B. of C. hath already assaulted, beaten and bruised him; and further hath threatened him in such sort, that he is afraid that the said A. B. will beat, wound, maim, kill, or do him some other bodily Harm: That A. B. hath already threatened that he will beat, wound, maim, kill, or do him some other bodily Harm, or burn his House; and that he is afraid he will accordingly do so.

One Justice by the first Assignavimus of the Commission of the Peace.  
Any of these Causes are sufficient,  
Lam. 9.  
3 Edw. 1. c. 9.  
W. 1.  
1 Ric. 2. c. 4.  
4 Hen. 4. c. 1.  
2 H. 4. c. 1.  
7 H. 4. c. 1.

Where a Warrant is against two for the Peace, say,

As we for their respective personal Appearance, &amp;c.

And they will respectively in the mean time, &amp;c.

And if they, or either of these, A. B. and C. D. shall refuse so, &amp;c.

Convey them or him so refusing to the Gaol aforesaid, &amp;c.

And them or him so conveyed there to deliver, &amp;c.

To receive them or him so delivered into the said Gaol, and them or him so delivered there safely, &amp;c.

Until they or he so delivered shall find, &amp;c.

of the Peace, against the said C. D. These are therefore, in his Majesty's Name, to command you the said Constable, that you do cause the said C. D. to come before me, or some other of his Majesty's Justices of the Peace for the said County, to find sufficient Security, as well for his personal Appearance at the next General Sessions of the Peace to be holden for the same County at T. aforesaid, then and there to do and receive as by the said Court shall be enjoined; as that he will, in the mean Time, keep his Majesty's Peace towards his said Majesty, and all his Liege People, and especially towards the said A. B. and if the said C. D. shall refuse so to do, that then (without expecting any further or other Warrant) you do safely convey him to the Gaol aforesaid, and him there deliver to the said Keeper of the same, together with this Precept; commanding also you the said Keeper to receive him into the said Gaol, and him there safely

to keep, until he shall find such sufficient Security aforesaid. Hereof fail not at your Peril. Given under my Hand and Seal, at &c.

If a Man be to find Surety of the Peace or good Behaviour, he must shew the Matter in the Warrant, but need not, if it touch Treason, Felony or capital Offences, or Conspiracy, or unlawful Assemblies. Dalt. 440. Crompt. 148. l. 16.

## A Mittimus for breaking the Peace.

To the Keeper, &c.

Essex. ff. **I** Send you herewithal the Body of A. B. whom I charge and require you, in his Majesty's Name, to take into your safe Custody (for divers Misdemeanors committed by him against his said Majesty's Peace) until he shall procure two good and sufficient Sureties to be bound with him in a Recognizance to his said Majesty, either of them in the Sum of Ten Pounds, and himself in Twenty Pounds, to appear before his said Majesty's Justices of the Peace, at the next Sessions of the Peace to be holden for this County; and in the mean Time, to be of good Behaviour towards his said Majesty and all his Liege People. Whereof fail not, &c. Given under, &c.

## See Title Good Behaviour.

## Peers.

## Peers.

None Noble  
under the De-  
gree of Baron.

Justice can't  
grant a War-  
rant for the  
Peace against a  
Nobleman by  
Birth or Crea-  
tion.

In what Cases  
Noblemen are  
to have Cler-  
gy.

Knight to be  
of the Jury, un-  
less in criminal  
Cases, and then  
a Peer must be  
tried by his  
Peers.

**I**N the Law of England none are counted Noble un-  
der the Degree of a Baron.

A Nobleman's Promise, on his Honour, to keep the Peace hath been held sufficient. *Dalt.* 267. *Lamb.* 81, 82. and therefore a Justice of Peace ought not to grant a Warrant of the Peace against a Lord of Parliament; nor can they be arrested by *Capias*, 26 H. 8. c. 8. Nor against a Dutcheffs, Marchioness, Countess, Viscountess or Baroness; for they have the same Privileges that Dukes, &c. have, and shall be tried by their Peers. *Dalt.* 267.

But this must be understood of those who are Noble by Creation or Birth; for if they are only Noble by Marriage, and the Husband dieth, and then they marry Gentlemen, they lose their Dignity. 1 *Cro.* 110. *Dalt.* 267. 6 *Co.* 52, 53.

A Nobleman by Stat. 1. *Edw.* 6. c. 12. in all Cases of Felony (wilful Murder and Poisoning, of Malice prepense, excepted) shall, upon his Request and Prayer, alledging that he is a Lord or Peer of the Realm, without Burning in the Hand, Loss of Inheritance, or Corruption of Blood, be adjudged for the first Time only as a Clerk convict: But in all other Cases, wherein Clergy is taken away by any Statute since 1 *Edw.* 6. he is in the same Degree as a common Person.

Where either a Peer or a Lord Spiritual is Party (tho' with others) a Knight must be returned of the Jury. 1 *Inst.* 156.

This is in Civil Causes, or in Cases of *Premunire* and Appeals; for in criminal Cases, upon Indictments at the Suit of the King, tho' it be for the Murder of a private Person, yet a Peer shall be tried by his Peers.

But then he must be a Peer *ratione Nobilitatis*, and not by Reason of the Barony which he holds in Right of the Church; for Bishops have not this Privilege, nor the Sons of Noblemen, if such Sons are not Lords of Parliament.



The Indictment may be either before Commissioners The Manner of  
of Oyer and Terminer in the County where the Offence was committed, or in B. R. if done in *Middlesex*.

After 'tis found, the King appoints a Lord High Steward of *England*, by a Commission under the Great Seal, *pro hac vice*; but yet such Commission may be adjourned.

In this the Indictment is recited, and Power given to the Lord High Steward to proceed thereon, *secundum Legem & Consuetudinem Angliae*; and all the Peers are commanded to attend him, and the Lieutenant of the Tower to bring up his Prisoner. This is the Substance of the Commission.

Then two Writs are issued out of Chancery, *viz.* a *Certiorari* to remove the Indictment returnable *indilate*, and a Writ directed to the Lieutenant of the Tower to bring up the Prisoner.

There are two Precepts likewise made by the said High Steward under his Seal, the one directed to the Commissioners to certify the Indictment, the other to the Lieutenant of the Tower, appointing him the Place and Time when and where he shall bring up the Prisoner. And he sends another Precept to the Serjeant at Arms to summon the Peers to appear; which being done, and the Court being sate, the Clerk of the Crown and the Usher deliver the Commission and the White Rod to the Lord High Steward, and both are by him redelivered to them respectively, the Usher keeping and holding the Rod all the Time of the Trial.

Then the three following Proclamations are made by the Serjeant at Arms.

1. To all Justices and Commissioners to certify Indictments and Records.
2. That the Lieutenant of the Tower return his Writ and Precept; and that he bring the Prisoner to the Bar.
3. That the Serjeant at Arms return his Precept, with the Names of the Peers by him summoned.

The Return of these Writs and Precepts are read by the Clerk of the Crown, and another Proclamation is made,

made, that the Peers answer to their Names ; but they are not to be sworn.

If the Prisoner pleads, Not Guilty, he cannot have Counsel to speak to a Matter of Fact, because that ought to be plainly prov'd to the Satisfaction of the Court, to induce them to think him guilty : But if any Matter of Law arise, as where a Pardon is pleaded, &c. then he is allow'd Counsel to argue that Matter ; and if the Peers have any Doubt, it ought to be resolved in open Court, in the Presence and Hearing of the Prisoner ; and to that End all the Judges attend the Trial.

The Prisoner is either acquitted or convicted by the Majority of the Peers, each of then saying, Guilty, or, Not Guilty upon his *Honour, seriatim*, beginning with the lowest, and ending with the highest Peer.

How a Woman  
loseth her No-  
bility.

If a Woman who is Noble by Birth marrieth a private Gentleman, she doth not lose her Name of Dignity ; but if she acquire her Nobility by Marriage, and being a Widow marry a private Gentleman, in such Case she retains her Dignity only by *Curtesy*.

## Perjury.

What Perjury  
is

**P**erjury is where a lawful Oath is administred by any that hath Authority, to a Person, in Judicial Proceedings, and he sweareth falsely in a Matter material to the Issue or Cause in Question, either of his own Accord, or by the Subornation of others.

at Common  
Law.

And a false Oath in any Court of Record, or in any Judicial Proceeding, is Perjury at Common Law. *Style, 374. Roll's Abridgment, 2 Part 257. Sid. 274.* and is punishable now either at Common Law, or by Statute, by Fine and Imprisonment. *2 Cro. 8. 5 Eliz. c. 9. Siderfin 454. Raym. 34.*

To make it Perjury at Common Law, it must be wilful and deliberate, and what is affirmed must be false, and it must be absolute and direct, and not as the Witness believes or remembers. It must likewise be in some Judicial Proceeding, either in a Court of Law or Equity, or before Persons in the Country, having Authority to administer an Oath, or by making  
an

an Affidavit where the Fact is either falsely affirmed or denied.

It must be in a Matter material to the Issue; for if 'tis in a Thing immaterial, and not tending to the Cause, 'tis not Perjury. *Dalt.* 212.

Subornation of Perjury is likewise an Offence at Common Law; and this is by procuring another to take a false Oath; and even if the Person suborned doth not take the false Oath, yet is the Person suborning punishable by Fine; but the Punishment for Perjury and Subornation, is Fine, Imprisonment and Pillory, and the Offender is for ever after disabled to be a Witness.

What is Subornation of Perjury.

Perjury is also punishable by Stat. § *El. c. 9.* by which it is enacted, That Suborners of false Witnesses forfeit 40*l.* to the King and Prosecutor, or six Months Imprisonment, and to stand in the Pillory an Hour, and not be received as an Evidence till Judgment be reversed. *Note*, On every such Reversal, the Party grieved to recover Damages against such Person as did procure the said Judgment reversed to be first given against them, or any of them, &c. Persons by Subornation, or by their own Act, being guilty of wilful Perjury, shall forfeit 20*l.* and six Months Imprisonment, &c. as before: Offender not having Goods, &c. to that Value, to be set in the Pillory, and his Ears nailed, &c. See the Act. Forfeitures to go to the King and Person grieved, and the Justices at Quarter-Sessions may hear and determine these Offences. § *Eliz. c. 9.* & 14 *Eliz. c. 11.* 1 *Ja. I. c. 25.* 1 *Cro.* 18.

Perjury by Statute.

But this Statute extends only to Perjury by a Witness, and not to Perjury in an Answer to a Bill in a Court of Equity, or to Perjury in an Affidavit; neither is a false Oath within this Statute, if it is not prejudicial to some Party in the Cause; nor does it extend to Offenders of this Nature in the Ecclesiastical Courts, if the Matter is Spiritual and not Temporal.

Statute extends only to Perjury in a Witness.

The safest Way in a Prosecution for Perjury, is by Indictment at Common Law, because so much Certainty is not required in that Prosecution as is upon the Statute.

The best Way of Prosecution is by Indictment at Common Law.

One Justice may bind the Offender over to the Sessions.

There may be Perjury in an Answer in Chancery, tho' not in a Matter charged in the Bill; but then the Indictment must be laid at Common Law, because 'tis not material to the Issue; as it must be likewise for a false



false Affidavit taken before a Master in Chancery, or for a false Answer; for these cannot be punished by the Statute; because the Statute extends only to Witnesses in Causes between the Parties. *Cro. Car.* 353. 2 *Bulst.* 322.

False Deposition  
no Perjury, unless,  
18c.

If any thing false be inserted in a Deposition, 'tis not Perjury, unless it be contrary in a Matter particularly charged in the Interrogatories, because the Commissioners who administer the Oath have not Power in any thing not charged in the Interrogatories. *Sid.* 274.

Where Action  
lies for Words.

If a Man call another perjurd Man, he may bring his Action on the Case; but an Action will not lie for calling another forsworn Man. 23 *H.* 8.

Swearing in  
common Dis-  
course Extra-  
judicial.

If a Man swear in common Discourse, that he has a Property in a Thing when really he has not; or a Constable who is sworn to execute his Office truly, and doth not; these and such like Oaths are called Extrajudicial, and not punishable as Perjury.

If an Officer take other Fees than are allowed and incident to his Office, he committeth Perjury. *Cro.* 57.

Conviction at  
Common Law  
may be Par-  
doned, but not  
by Statute.

A Man is convicted of Perjury at Common Law, the King may pardon and restore him; *aliter*, if he is convicted on 5 *Eliz.* c. 9. for that says expressly he shall not be a Witness till the Judgment of Conviction be reversed.

A Man may be indicted of Perjury for making a false Affidavit, by the Common Law, tho' not upon Stat. 5 *Eliz.* c. 9. *Mich.* 12 *Ja.* 1. 1 *Roll's* 79. *Mich.* 20 *Ja.* 1. 2 *Roll's* 244.

Cases of Per-  
jury.

*M.* was indicted on 5 *Eliz.* c. 9. for Perjury before a Commission for examining Witnesses in Chancery, and the Indictment was quash'd in B. R. 1. Because it was not set forth that the Commission was under the Great Seal, so that it might appear that the Commissioners had Power to take an Oath. 2. Because the Indictment recited the said Statute, and shews in what Particular the Oath was false, but did not shew what the Issue in Chancery was, so that it might appear whether what was sworn was material to the Issue. *Hill.* 21 *Ja.* 1. 2 *Roll's Rep.* 427. *Cr. Eliz.* 148. *Larcie's Case.*

Perjury in a Witness is punishable by the Common Law. 12 *Co.* 101. *Hugh Manneg's Case.* 3 *Inst.* 164. *Mich.* 6 *Ja.* 1. 2 *Cro. p.* 212.

L. F. was indicted upon 5 Eliz. for Perjury, in giving false Evidence to the Grand Inquest at *Witch* Sessions, upon an Indictment for a Riot. The Indictment of L. F. was removed into B. R. and L. F. was discharged of that Indictment: For that Stat. has two Branches, first against Suborners or Procurers of Perjury, and that is in Matters depending by Bill, Writ, Action or Information; so that L. F. was out of this Clause. And the second Branch (and upon which L. F. was indicted) provides against them who commit Perjury by his or their Deposition in any of the Courts above-mentioned, or in being examined in *perpetuam rei memoriam*. And tho' this Clause be general, and not restrained by any Words to such particular Suits by Bill, &c. as the first was; yet, in good Construction, this Branch shall have Reference to the first, and shall be expounded by it; for one Part of the Act expounds the other. 5 Co. 99. *Flower's Case*. 40 & 41 Eliz. Pasch. 30 Eliz. 3 Leon. 201. *Matthew's Case*.

R. was indicted for Perjury upon 5 Eliz. c. 9. supposed to be committed in his Answer in the Star-Chamber, and his Examination upon Interrogatories there; but because he was not examined as a Witness, nor in *perpetuam rei memoriam*, he was discharged. Mich. 31 & 32 Eliz. Cro. Eliz. 448. *Risber's Case*. Hil. 5 Ja. 1. Yelv. 120. *Sir Robert Miller's Case*.

A Man took an Oath in the Court of Requests in a Business there depending concerning Matter of Freehold, and was prosecuted for Perjury; and the Question was, Whether he was perjured or not; the Court of Requests having no Jurisdiction in Matters which concern Freehold; Resolved by all the Judges of England, that tho' the Matter sworn was in Fact false, yet it relating to a Matter of Freehold, whereof the Court of Requests had no Jurisdiction, it was not Perjury, and he was acquitted. Hil. 8. Ja. 1. 1 Bulst. 107, 108. Yelv. 3.

A. was prosecuted for Perjury in making a false Affidavit before Sir Robert Rich, who was one of the Masters in Chancery; and ruled to be no Perjury, being upon an Affidavit, and not sworn in Court. Latch. 38 & 132. *Luthers vers. Holland*.

An Indictment at Kingston upon Thames, upon the Stat. for Perjury, was quashed for two Causes. 1. It is not express'd in what County Kingston is. 2. It doth not express how the Party was perjured; for it shews not in what Cause it was, nor that it was in giving any Evidence upon Oath as Witness in any Cause. Trin.

Cases of Per-  
jury.

24. Car. I. B. R. Style 116. Cro. Eliz. 137. *Stedman's Case*, and p. 148. *Fane's Case*. Cro. Eliz. 428.

An Indictment of Perjury at Sessions was quash'd, because it did not appear that any of the Justices, before whom it was taken, were of the *Quorum*. Trin.

24. Car. I. Style 123. 124.

An Indictment upon Statute 5 Eliz. c. 9. against Perjury, was quash'd, because the Indictment set forth that the Oath was taken before Baron *Atkins* and Serjeant *Turner*; but it doth not say where the Oath was taken. Trin. 24. Car. I. B. R. Styl. 126.

*D.* was indicted upon 5 Eliz. for Perjury; and the Indictment was, that *falso per se sacro Evangelio falso deposit*; but it was directly alledged that he was sworn. The Indictment was discharged; for the Justices said when such a heinous Crime was objected against one, it ought to be fully alledged, otherwise it is not good. Cro. Eliz. 105. *Dinslow's Case*.

*L.* and *H.* were indicted upon the 5 Eliz. for Perjury, and discharged, because the Indictment was *falso & corrupte*, but not *voluntarie*. Cr. Eliz. 147. *Lembro and Hamper's Case*, 201. 30.

The Defendant having made an Affidavit in C. B. and appearing in Court upon a Summons, confessed that he made it, and that it was false; whereupon the Court recorded his Confession, and ordered that he should be taken into Custody, and stand on the Pillory, &c.

It was objected that his Confession was not a Conviction, but only Evidence of his Guilt, and that he ought to be brought before the Court judicially, by Indictment, and convicted thereon. Besides, the Court of C. B. hath not Jurisdiction in this Case, it being criminal; but *per curiam*, the Confession of a Crime is the strongest Evidence against the Criminal himself; and the Statute 5 Eliz. gives Power to hear and determine this Offence by Inquisition, &c. or otherwise, by which Word the Confession of the Party may be intended, and the Punishment by Pillory is inflicted by this Statute, which shews that the Court proceeded on the Statute; but it is likewise an Offence at Common Law. Trin. 9 Geo. B. R.

On an Information for Perjury, there was a Verdict for the King: The Information was *Memorandum*, that Sir T. F. Knt. giveth to the Court to understand, and to be informed, that in *Hilary* Term 1659, in *Rotulis continetur* sic, that *D.* brought an Action; and so recites the whole Record and Trial; and



and that the Defendant *fallum prastitit sacramentum*, at the said Trial, &c. It was objected in Arrest of Judgment, that to say in *Rotulis continetur*, that the Defendant took a false Oath, is not a positive Charge; for it ought to be after Reciting the Proceedings, & *alterius dat' cur' hic intelligi*, that the Defendant took a false Oath; but adjudged that the Record it self being a Record of the Court, the Judges will take Notice and consider what is positive in it.

Information for Perjury, setting forth that the Defendant swore that Mr. *Stroud* about the Middle of July 1681. was at *Newnham* \* *innuendo Newnham* in *Devonshire*, when in Truth he was not; there was a Verdict for the King; but the Judgment was set aside, because the Word *Newnham*, without mentioning any County, is very uncertain, and might be as well in one Place and County as in another; and 'tis not restrained by a bare *Innuendo* to *Devonshire*, not being done by Way of Averment; so it may serve to explain a thing antecedent, but never to add new Matter: And if so, then this is constructive Perjury, which the Law will not allow. It is true, this is an Information upon the Statute, but yet it ought to be as certain as on an Indictment. The Difference is that where the Conviction is on the Statute, Disability is Part of the Judgment; but if at Common Law, then Disability is the Consequence of the Conviction; therefore in the last Case, a Pardon restores him to be a Witness, but not in the other; for there he must reverse the Judgment.

Perjury in the Spiritual Court, or in a Court-Baron, is punishable at Common Law; but where the Indictment is upon the Statute, it must appear to be committed in a Court of Record; as if the Defendant is indicted for procuring a Witness to take a false Oath before the Town-Clerk of *London*; this is not within the Statute; for it is *coram non iudice*; and the Subornation must be to give Evidence in a Court of Record.

If an Indictment be grounded upon the Common Law, there needs not so great a Certainty in it, as if brought on the Statute. *Sid. 106.*

My Lord *Coke* in his 3 *Institute* 163, in his Paraphrase on this Statute, tells us that the Indictment must set forth the judicial Proceeding: It must also shew that the Oath was taken in something material to the Issue, because the Statute gives the Remedy to

\* There must be an Averment, that what he swore was not true, otherwise the Word False will nor do.

Where Perjury in Spiritual Court, &c. is punishable.

What the Indictment must set forth.

Where Indictments good at Common Law

Where upon the Statute.

It must be wilful Perjury.

the Party grieved; and if the Deposition is not in a Thing which is conducing to the Issue, the Party is not grieved. *Cro.* 152. 3 *Inst.* 165.

Making a false Affidavit, may be punished as aforesaid, by an Indictment at Common Law; and in such Case the Affidavit must be filed; and after the Perjury is assigned, you must conclude *prout patet per Recordum.* *Styl.* 336. 2 *Bulst.* 322. 1 *Rol. Rep.* 79. 3 *Leon.* 201. *Yelv.* 120. *Noy.* 80. *Latch.* 38. 132.

But if it appears that the Oath was made in something conducing to the Issue, setting forth that the Master had Power to administer an Oath; the Indictment may be good upon the Statute. 4 *Leon.* 105. *Godb.* 71. 179.

If an Indictment is at Common Law, supposing the Perjury to be committed in a Deposition to Interrogatories in Chancery, you need not set forth to what Interrogatory; but if 'tis upon the Statute, then you must shew that the Commission was under the Great Seal of England; that it may appear to the Court, the Commissioners had Authority to administer the Oath; and you must assign the Perjury to be in a Point conducing to the Issue in Chancery, and shew how it concerned the same.

So also if it be upon the Statute, it must appear to be wilful Perjury; for if it is that the Defendant *falso & deceptivo deposuit*, it is not good, though the Indictment concludes, *& sic commisit voluntarium Perjurium*, because the one is no positive Allegation, that he did it wilfully, and the other is but a wrong Conclusion from the Premises.

A Man is punishable on the Statute for a false Oath before a Steward of a Lect. *Styl.* 324. 29 *Car.* 2. c. 3. *Sid.* 106. 2 *Rol. Rep.* 427. *Cro. Eliz.* 428. 2 *Leon.* 211. *Cro. Eliz.* 147. 201. *Het.* 12.

If a Man wage his Law, he is a Witness for himself, but not punishable by the Statute. *Noy.* 128. If a Man swears the Truth, and doth not know it, he is Guilty of Perjury. *Het.* 97.

To say only *tactio per se sacrosancto Evangelio deposuit*, is ill, because no positive Allegation that he was sworn. *Cro. Eliz.* 104.

If in reciting the Action you should mistake the Term in which it was brought, this is only circumstantial; and if it appear to be between the same Parties, and in the same Cause, 'tis good; for the Defendant cannot be doubly charged in such Case. *Godb.* 88.

The Defendant was found Guilty, for that he *Indictment for*  
*movebat persuadebat & subornavit* J. C. to swear that *Subornation,*  
 several Men were at such a certain Place, who real- *must set forth*  
 ly were at that Time in another Place ; but upon a *what the Per-*  
 Writ of Error the Judgment was reversed, because *jury was.*  
 the Indictment did not set forth that any Oath was  
 made ; for it is not enough for one to say that the  
 Defendant suborn'd another to commit Perjury, but  
 he ought to shew what Perjury it is ; which can-  
 not be done unless an Oath was made.

If Issue be joined upon any of these Indictments, If Prosecutor  
 and the Prosecutor will not try it, the Defendant will not, De-  
 may bring it on by Proviso, though it is in the Case fendant may  
 of the King, because it is for the Benefit of the Sub- try it by Pro-  
 ject not to lie under such an Imputation. viso.

And because the Fact shall be tried, the Courts No Certiorari,  
 above do not grant *Certiorari's* to remove these In- n or no new  
 dictments, or quash them upon Motions before Trial to be  
 Trial. granted.

Neither after Trial do they grant a new One, tho'  
 there is apparent Cause ; but this is only in Case the  
 Defendant be acquitted ; for where he is found Guil-  
 ty 'tis otherwise. *Sid. 49. 1 Lev. 9.*

J. was convicted of Perjury upon the Evidence of *Convicted on*  
 R. and afterwards J. convicted R. of Perjury, in *Statute, must*  
 the very same Matter ; but before J. can be restored bring a Writ  
 to his Credit, he must bring a Writ of Error to re- of Error be-  
 verse the Judgment upon the first Perjury. *Sid. 217.* fore he can be  
 restored to his

B. a Midwife, was indicted for Perjury. The Credit.  
 Case was thus :

One D. Tenant for Life, Remainder in Tail to *Cases of Perju-*  
 his Son ; and for Want of such Issue to his Daugh- ry.  
 ter, &c. died : His Widow soon after his Death de-  
 clared that she was delivered of a Daughter ; and  
 upon a Trial in Ejectment between the Infant and  
 him in Remainder, it was proved that she was deli-  
 vered by Circumstances usual in such Cases. But  
 the Midwife deposed that this was the Child of a  
 poor Woman, which she bought of the Mother for  
 Half-a-Crown ; and that she conveyed it into the  
 Bed to Mrs. Dormer, who cried out, and then the  
 Midwife took the Child from her ; and that there  
 was a Bladder of Blood, and some other Things pro-  
 vided by her, to resemble the After-birth. The Jury  
 gave Credit to the Midwife, and acquitted her of  
 the Perjury. *Sid. 377.*

B. was Defendant in a Suit in Chancery, and made  
 Affidavit that C. was so ill that he could not travel ;



but at the Hearing of the Cause, C. appeared and said he had not been sick, but that B. had desired him to feign himself sick in Bed, only that he might depose he left him so. The Lord Keeper Egerton ordered both Parties to attend, and to be examined on Interrogatories, and B. denied the Practice; but C. affirmed it, produced Witnesses who very plainly proved it. Now this being double Perjury in B. first in making a false Affidavit, and then afterwards denying the Practice on Interrogatories, he was fin'd 20*l.* to the King, and committed. And this is the rather mentioned, because there have been some Doubts whether Chancery could punish Perjury.

Sir J. J. obtained a Verdict against one P. who indicted the Witness for Perjury: And this coming to a Trial, Sir J. J. ordered his Servants to beat the Witnesses who were to prove the Perjury; which was done, so that they could not appear when the Trial came on; by Reason whereof the Defendants were acquitted. And because after an Acquittal in a criminal Case, a new Trial cannot be granted; therefore the Court directed an Information against Sir J. J. for this Offence, who was convicted upon it, and fin'd 1000*l.* and bound to his Good Behaviour for a Year. 1 Leon. 124. Sid. 153.

### Indictment for Perjury in a Deposition in Chancery.

Essex. ff. **J** A. B., et. quod R. G. de R. in Com' pzed' Beoman nono die Augusti Anno Regni, et. apud R. pzed' in Com' pzed' coram J. S. & P. M. Arm' Commissionar' virtute brevis dicti Dom' Regis de Commissione extra curiam Cancellarie sue apud euestm' in Com' Abbd' pzeantea emanantis & pzed' J. S. & P. M. direc' pro examinatione testium tam ex parte J. L. de L. in Com' pzed' Gen' querentis quam ex parte C. H. de B. in Com' pzed' Ar. Defendentis in quadam sexta causa sive materia inter ipsos J. L. & C. H. tunc in dicta curia Cancellarie in barlantia depend' p titulo unius messuagii cum pertin' in H. pzed' personaliter constitut' & tunc & ibid. existens testis productus p pzed' J. L. ad testificand' & deponend' in causa pzed' ex parte ipsius J. L. & juratus

ratus p dictos Commissionarios ad veritatem dicend' super interrogatoriis ei adtunc & ibid. p dictos Commissionarios ex parte pzed' J. L. ministrat' dixit & super sacram' suum voluntarie & corrupte deposuit & affirmabit in his Anglicanis verbis sequen' viz. (To the sixth Interrogatory, he saith that the said Messuage was used, &c.) prout per pzed' depositionem pzed' R. G. inter alia per pzedat' Commissionarios in dicta Cancellaria certificatum & missam ac ibid. de recordo remanen' plenius apparet ubi rebera & in facto pzed' messuagium non occupatum fuit, &c. & sic ibidem R. G. dicto nono die Augusti Anno supradicto apud R. pzed' in Com' pzed' coram pzedat' J. S. & P. M. Commissionariis dicti D'ni Regis (ut pzedetur) existentibus voluntarie & corrupte perjurium commisit voluntarium & corruptum contra formam statuti in huiusmodi casu edit' & probis', &c.

An Indictment upon the Statute of 22 Car. 2.  
c. 5. for Perjury in an Affidavit before  
Commissioners extraordinary.

Essex. ff. **J** W. &c. quod R. G. de R. in Com' pzed' Gen' 9 die Augusti Anno Regni, &c. apud R. pzed' in Com' pzed' venit coram T. S. Gen' adtunc Commissionar' virtute cuiusdam actus parliamenti Anno Regni D'ni Caroli nuper Regis Angl', &c. 29 fact' intitulat' (An Act for taking Affidavits in the Country, to be made use of in the Courts of King's Bench, Common Pleas, and Exchequer) nuper edit' & probis' & adtunc & ibid. Juratus existen' super sacrosancta Dei Evangelia (eodem T. S. adtunc haben' sufficien' auctoritatem ad ministrand' sacram' pzedat' R. G. virtute actus Parliamenti pzed') adtunc & ibid. super sacram' suum pzed' falso maliciose voluntarie & corrupte deposuit jurabit & in scriptis affirmabit de & concernen' (here recite the special Matter, and afterwards the Affidavits in her verba) Inter R. W. quer' & P. E. Defend' prout per sacram' pzed' efusorem R. G. in scriptis remanen' & in curia dicti Dom' Regis coram ipso Rege apud Westm' in Com' pzed' afflat' plenius liquet & apparet ubi rebera & in facto (here recite the Perjury) pzed' R. G. falso maliciose voluntarie & corrupte deposuit jurabit & in scriptis affirmabit

## Perjury. Petition.

firmabit & sic pzed' R. G. pzed' nono die Augusti Anno Regni, &c. apud R. pzed' in Com' pzed' coram pzedat' J. S. Gen' adtunc & adhuc Commissio-  
nar' virtute pzed' actus parliamenti erissen' ad-  
tunc & ibid. haben' sufficien' auctoritatem ad admi-  
nistrand' pzed' sacram' pzedat' R. G. falso malitiose  
voluntarie & corrupte commisit voluntarium & cor-  
ruptum perjurium contra formam statut. &c.

## Petition.

Soliciting to  
get above 20  
Hands to a  
Petition to the  
King, &c. for-  
feits 100.

**P**ersons soliciting, labouring, or procuring the  
Getting Hands or other Consent of above twenty  
to any Petition, Complaint, Remonstrance, Declara-  
tion, or Address to the King, or either or both  
Houses of Parliament, for Alteration in Church or  
State, unless by Consent of three or more Justices, or  
major Part of the Grand Jury, at the Assizes or  
Sessions of that County or Division where the Mat-  
ter arises; or if in London, by the Mayor, Alder-  
men, and Common Council; or repairing to the  
King, to deliver such Petition, &c. with above ten  
Persons in Number, shall forfeit a Sum not exceed-  
ing 100*l*. and suffer three Months Imprisonment,  
without Bail.

It must be presented at the Assizes or Sessions  
within six Months after the Offence, and proved by  
two or more credible Witnesses.

Any not above  
ten in Num-  
ber, may,  
present it.

But any not exceeding ten in Number, may pre-  
sent any Grievance to a Member of Parliament af-  
ter his Election, during the Parliament, or to the  
King; and both or either House of Parliament may  
address themselves to the King. 13 Car. 2. c. 5.

By Stat. of 1 W. & M. c. 2. It is declared that it  
is the Right of the Subjects to petition the King;  
and all Commitments and Prosecutions for such pe-  
titioning are illegal.

## Petty Treason. Vide Treason.

Pewter.



## Pewter.

**J**ustices at Quarter-Sessions after *Michaelmas*, yearly, shall appoint Searchers of Pewter and Brass; and if Searchers find any not lawful Metal, may seize it for their own Use and the King's. 19 H. 7. c. 6, c. 6. See the Act.

## Physicians.

**J**ustice or Justices to assist the President and other Persons authorized by the College of Physicians, to search Apothecaries Shops for bad Drugs; and for putting in Execution the several Acts of Parliament, which concern the said College. 1 M. c. 9. c. 9.

## Pilchards.

**B**y Stat. 13 & 14 Car. 2. c. 18. Suspicious Persons flocking together about the Boats, Nets, and Cellars, belonging to the *Pilchard-Craft*, upon the Coast of *Cornwall* and *Devonshire*, being warned by the Company or Owners of the Boats and Cellars, to be gone; and refusing so to do, forfeit 5 s. to the Poor, and to be set in the Stocks. Conviction by one Witness before one Justice.

## Pick-Pocket. See Felony.

**M**y Lord *Hale* calls this Larceny from the Person, wherein pick- without putting him in Fear; for 'tis done *clam* ing a pocket & *secrete*, without his Knowledge. In this Case Clergy differs from is taken away by Stat. 8 Eliz. c. 4. if the thing Robbery. stole be of the Value of 12 d. or more; for if it be under that Value, it is still but Petit Larceny; and though the Statute took away the Benefit of Clergy, it did not alter the Offence.

There-

Where Capital, where not.

Therefore to make this Crime capital. 1. It must be done *clam & secreta*. 2. The Thief must have the actual Possession of the Thing taken. 3. It must be without putting in Fear; and 4. It must be above the value of 12d.

There is a Case in my Lord *Dyer*, where a Felon took away Money to the Value of forty Shillings, or above, from the Person of another in the Highway; and yet for that he did not put his Person in Fear by Assault and Violence, this was holden no Robbery; and the Offender was allowed his Clergy for the same Felony. *Dalt.* 492.

Case of it.

A Man cuts my Girdle privily, my Purse hanging thereto, and the Purse and Girdle fall to the Ground, but he did not take them up (for that he was espied). This is no Felony; for that the Thief never had an actual Possession thereof severed from my Person. But if he had holden the Purse in his Hand, and then cut the Girdle, altho' it had fallen to the Ground, and that he took it up no more, then had it been Felony, if there had been above Twelve-pence in the Purse; for he had it once in his Possession. But these secret and privy Takings from my Person are no Robbery; for he neither assaulted me, nor put me in any Fear. *Dyer* 224.

### Indictment for this Offence.

Essex. H. J. R., sc. quod R. G. nuper de F. in Com' pzed' Labourer 9 die Augusti Anno Regni, sc. apud F. pzed' in Com' pzed' sex solidos in pecuniis numeratis de bonis & catallis cuiusdam J. S. adunc & ibid. a persona ipsius J. S. clam & secreta & sine notitia pzed' J. S. felonice cepit furatus est & asportabit contra pacem dicti Dom' Reg', &c.

Pigeon-

## Pigeon-houses. See Game.

**I**T is not a common Nuisance to build a Pigeon-house, if there be no Pigeons in it, and the Dove-cote Person who builds it is a Free-holder; and there-fore not punishable in the Leet; for it cannot be a common Nuisance, unless it is so to all Persons; but this can be only a Nuisance to those whose Corn they eat. 2 Cro. 492. Popb. 141. Mich. 14. Jac. 1. B. R. Vesey's Case. But the contrary was adjudged in B. R. 16 Jac. 1. in the Earl of Northumberland's Case reported in Popb. 141. Cro. Jac. 490. Pl. 11 Roll's Rep. 2.

## Pillory.

**A** Pillory and Tunbrel ought to be in every Leet, or the Lord fined. Cro. 114.

This is an infamous Punishment, appointed by several Statutes to be inflicted on Offenders; viz.

By 51 Hen. 3. on Bakers.

31 Ed. 1. on Forestallers.

11 H. 7. c. 4. for false Weights.

33 H. 8. c. 1. for getting Money by counterfeit Letters, and false Pretences.

2 Ed. 6. c. 15. Workmen conspiring about Wages, upon the second Conviction.

5 Ed. 6. c. 6. Counterfeiting Seals of Cloth, or taking them off.

5 Eliz. c. 9. Perjury, or Subornation of Perjury.

7 Ed. 6. c. 7. Persons Convicted of Breaking the Assize of Fewel, unable to pay, &c.

18 Eliz. c. 5. Informers compounding a Penalty, without Consent of the Courts at Westminster, or delaying or discontinuing the Suit, ten Pounds Fine, and Pillory; the Fine to the King and Party grieved.

5 Ed. 6. c. 14. for the third Offence of Fore-stalling, &c.

## Piracy.



## Piracy. See Felony.

Piracy not an  
Offence at  
Common  
Law.

**P**iracy is an Offence, which being committed out of the Land, the Common Law takes no Notice of it, and therefore it cannot be tried by it; but it was tried as a Capital Crime, according to the Civil Law, in the Admiralty Court, before the Statute of 28 H. 8. c. 15. which alters not the Offence, but only the Method of Trial: viz. It says that it shall be tried according to the Course of the Common Law.

No Clergy al-  
lowed.

And it being an Offence by the Civil Law, which does not allow the Benefit of Clergy in any Case, and not by the Common Law, therefore is there no Clergy allowed. *Moor. 756. Yelo. 135. Noy. 131.*

Not pardon ed  
by a Pardon  
of all Felonies.

It is for this Reason that a Pardon of all Felonies will not pardon Piracy, because it is no Felony at Common Law; and therefore there can be no Corruption of Blood upon an Attainder for this Crime, though there is a Forfeiture of Life, Lands and Goods.

No Accessary  
at Land.

Neither can there be any Accessary at Land, because the Principal is not a Felon by our Law; but by Stat. 8 Geo. it is enacted, that all Persons who by the Stat. 11 & 12 Will. 3. are declared to be Accessaries to any Pirates, shall from thenceforth be Principals, and shall be tried as such by the Stat. 11 & 12 W. 3. and being convicted, shall suffer as by the said Act, without Benefit of Clergy.

But this Offence coming very little or not at all under the Cognizance of Justices of Peace, no more shall here be said of it, than that those who have a mind to have fuller Information about it, may consult the Statutes of 28 H. 8. c. 15. 2 & 3 Ed. 6. c. 24. 11 & 12 W. 3. c. 7. 5 Ann. c. 31. 1 Geo. c. 25. 4 Geo. c. 11. 6 Geo. c. 19. & 8 Geo. c. 24.

**Plague.**

## Plague.

**I**F any Person infected, or dwelling in an House infected with the Plague, being by a Justice or head Officer, &c. commanded to keep Home, shall yet wilfully go Abroad, having an infectious Sore, it is Felony; if no Sore, yet shall be punished as a Vagabond, and bound to the Good Behaviour for one Year. *1 Jac. 1. c. 31.*

Justices and head Officers, &c. shall appoint Searchers, Watchmen, Keepers, and Buriers in Places infective, give them Directions, and administer an Oath to them for Performance of their Office. *Ibid.*

If any Person infected, &c. shall attempt to go Abroad, such Watchmen may inforce them to keep their Houses. *Ibid.*

Two Justices or head Officers may tax every Inhabitant, &c. for the Relief of infected Persons in the same Place; and by Warrant of two Justices, &c. may levy the same by Distress; and for Default thereof, &c. by like Warrant may commit such Persons to the Gaol, till he satisfy the Taxation. *Ibid.*

If the Inhabitants of such Place, &c. are not able to relieve their infected Persons, &c. upon Certificate thereof, by the head Officer and Justices, &c. any two Justices near the Place, may tax the Inhabitants within five Miles thereof, for the Relief aforesaid. *Ibid.*

If any Infected shall be in any Borough, &c. where there are no Justices, or in any Hamlet, then any two Justices of the County may tax the Inhabitants of that County, and within five Miles of the Place, to be levied as aforesaid, &c. and such Sums shall be distributed by Justices, or head Officers and Justices. *Ibid.*

All such Taxes shall be certified at the next Quarter-Sessions in such City or County, &c. Universities, Cathedral-Churches, and the Colleges of *Eaton* and *Winton* are excepted out of this Act. Continued by *3 C. 1. c. 4. & 16 & 17 C. 1. c. 4.*

A Justice may at his Discretion appoint Searchers, Watchmen, Examiners, Keepers, and Buriers, for Persons and Places infected with the Plague, give them

## Plague.

them their Oaths for Performance of their Offices, and other Directions as to his Discretion shall seem good. 1 *Ja.* 1. c. 31. *Dalt.* c. 6. & 72. *Lamb.* 197.

**A Warrant to shut up a House which is infected, and to take care for their present Maintenance.**

To the Constable, &c. and to the Church-Wardens and Overseers of the Poor, &c.

1 *Jac.* 1. c. 31.  
continued by  
3 *Car.* 1. c. 4.  
& 17 *C.* 1.  
c. 4. *Dalt.* 145  
c. 72. *Lamb.*  
337. 39 *Eliz.*  
c. 4. *Co. Inst.*  
3d Part. p. 90.

**W** Hereas we are credibly informed that the Plague is in the House of A. B. whereof one died; and that divers of the Inhabitants of your said Parish, have resorted to the said House, both before and after the said Party was dead; (and especially C. D. E. F. and G. H. in the House of N. M. by Reason whereof it is feared that they are sick); and so by Reason thereof it is feared that they are sick, by which means the Sickness is like to encrease and spread further in the Town, unless there be speedy Provision made for the Prevention thereof: These are therefore in his Majesty's Name, to charge and command you that forthwith you cause the said House so infected to be shut up, and that you appoint a Warden at the Door to keep them from coming forth, and others from going to them; And that you the Church-Wardens and Overseers of the Poor be careful that the Parties shut up be sufficiently provided for, for their present Relief and Sustenance: And further that you cause the said N. M. and his Family to keep themselves within their own Doors; and that in the mean Time he forbear to victual or let any come into his House till he hath further Order. And of your further Care and Diligence herein we do expect a continual Account, that we may give further Directions as Occasion shall require. And we further advise and order the Parishioners that they be very careful not to mingle themselves with those that have been of the same infected House: And of this our Warrant we require you to give speedy Notice. Hereof fail not at your peril. Given under our Hands and Seals, &c.

**A War-**



# A Warrant to make a Rate for the Relief of Persons infected.

To the Church-Wardens and Overseers of the  
Poor of the Parish of, &c.

Essex. ff. **F**Orasmuch as Information hath been given  
unto us by Certificate, that the Parish of A. Two Justices.  
within this County, is infected with the Plague; and that  
the Inhabitants thereof do find themselves unable to relieve  
the poor infected Persons, and therefore have need of Relief  
from the adjacent Places five Miles about, according to the  
Statute in that Case made and provided: These are there-  
fore in his Majesty's Name to command you and every of  
you to come before us on the Tenth Day of July next, at  
Two of the Clock in the Afternoon at T. in N. &c. and  
bring with you your Church-Books of Rates for the Poor, to the  
End that an equal weekly Rate and Assessment may be made  
for the Purposes aforesaid. Hereof fail not at your Perils.  
Given under, &c.

A weekly Rate made the 9th Day of August by  
J. S. and P. M. Esqrs. two of his Majesty's Justi-  
ces, &c. with the Assistance of the Church-Wardens  
and Overseers of the Poor of the Parishes within  
five Miles Compass of the Parish of A. at this Time  
infected with the Plague, to be paid by the Inhabi-  
tants of the same Parishes weekly, for their Relief,  
during the Time of the Infection, according to the  
Statute in that Behalf provided.

The Inhabitants of the Parish of B. to pay week-  
ly as followeth:

|           | l. | s. | d. |
|-----------|----|----|----|
| A. B. ——— | 00 | 01 | 00 |
| C. D. ——— | 00 | 00 | 06 |
| E. F. ——— | 00 | 00 | 04 |
| &c.       |    |    |    |

A War-

## A Warrant to levy the weekly Relief.

To the, &amp;c.

1 Jac. 1. c. 31.  
Two Justices.Upon Non-  
payment to  
be committed  
till paid, and  
Arrears  
thereof.

**E**ffex. ff. *Orasmuch as there being a Rate or Assessment made for your Parish of L. (annexed to this Warrant) for the Relief of the Inhabitants of the Parish of A. in this County, at present infected with the Plague, according to the Statute in that behalf made and provided: These are therefore, in his Majesty's Name, to command you, that you, some or one of you, do forthwith levy and collect the several and respective Sums of Money of the Persons therein respectively named, by Distress and Sale of the Goods of the Offenders, rendering to the Parties the Overplus, if any be; and the same Money so by you received, to be paid to the Overseers of the Poor of the said Parish of A. and give in the same upon your Account, at the End of your Year. Given under our Hands and Seals, &c.*

## Poison.

## See Homicide, Title Murder.

Poisoning,  
from Treason,  
made Murder.

**K**illing a Person by Poison is so villainous a Murder, that it was Treason and punishable by boiling to Death in hot Water, by 22 H. 8. c. 89. But that Statute was repealed by 1 Edw. 6. c. 12. & 1 M. 1. and maliciously Poisoning, by which Death doth ensue within a Year and a Day, is declared to be wilful Murder, of Malice prepened.

Cases of it.

A Nobleman is to have Clergy in all Cases of Felony, except in Murder and Poisoning. Vid. Clergy.

Killing the Child in the Womb with Poison, if Quick 'tis Murder, otherwise not. 3 Inst. 50.

Indictment, for that he did put *quoddam Venenum, Anglice* Antimony, into a Cup of Beer, and gave it to J. S. It was objected that *Venenum* was Latin for Poison generally, and not for any Species of it; but this was over-ruled. See Hardr. 361.

Case of Poison-  
ing.

One brings poison'd Drink, and (knowing) persuades another to drink it, who drank it in the Absence of the Bringer, and this was held to be Murder. 4 Co. 44.

But whoever has a Mind, may find more Cases of this under the Head Murder in Title Homicide.

Poor.

A Sublime, a Great and a Godlike Mind, shews it self in nothing more than in Charity, a Virtue so exceeding pleasant, that I know not whether the Giver or the Receiver has the greater Pleasure in it. And yet there are very few, if any Nations or Countries, where the Poor are more neglected, or are in a more scandalous nasty Condition than in *England*. Whether that is owing to that natural and inbred Cruelty for which the *English* are so much noted among Foreigners, or to that Medley of Religions which are so plentifully sown, and so carefully cherish'd among us; who throwing off the common Ties of Humanity, Christianity and of Englishmen, think it enough to take Care of themselves, and take a secret Pride and Pleasure in the Poverty and Distresses of those of another Persuasion; I shall not take upon me to determine; but cannot forbear saying, the Church of *England* has set a glorious Pattern and Example, in setting up and establishing the Charity-Schools, which have saved both the Souls and Bodies of many Thousands, from that eternal and temporal Destruction, to which the Pride and Malice of some of our Sectaries had otherwise predestinated them; and thereby, as King *Charles II.* said of the *Dutch* Charity in 1672, has engaged God Almighty to protect her and preserve her against all the wicked Designs of her Enemies, so that the Gates of Hell shall never prevail against her.

The Poor in England but in a bad Condition.

Charity-Schools.

But tho' this Nation languishes in nothing more than in the Increase and Miseries of our Poor, in the Nastiness and Badness of our Highways, and the Want of a due Court and Laws to punish the corrupt Members in the Administration; yet has there never yet been found any Method to prevent or effectually to remedy any of those Evils.

Before the Reformation, 'tis true, there was no Occasion for any Law on the Account of the Poor, because such was the Devotion of our Ancestors, that there seemed to be a pious Contention among them who should first bring their Offering to the Church;

Before the Reformation  
Convents took  
Care of the  
Poor.



and the Bishop, to whom the Charge of Souls was committed, was, for that Person, thought the fittest Person to be intrusted with those Oblations.

By these and other superabundant Offerings at Altars, Sepulchres and Shrines of Martyrs, the Church became so rich, that several Monasteries, Priors, Religious Houses and Hospitals, were by this Means founded and plentifully endowed, where the Poor were sufficiently relieved, till those Houses were dissolved, out of whose Ruins sprung up in a few Years a numerous Encrease of Poor, whose Miseries and Necessities produced the Statute of 43 of Queen Elizabeth c. 2. being the first Law made for Relief of the Poor; and which being found ineffectual, has since, from Time to Time, set divers great and good Men, whose Ears and Breasts the Cries of the Poor have pierc'd, to think on and find out some further Methods for their Relief.

Expedients to  
relieve the  
Poor.

The best Me-  
thod for it.

My Lord Hale, whose Remembrance is dear to all the Just and Upright, and whose Memory will be venerable and blest to latest Posterity, has taken the Pains to write a little Treatise on purpose on this Subject; and Sir Josiah Child has, in his Treatise of Trade, proposed Methods for Relief of the Poor; and both of them agree in this, that the best Way to relieve the Poor, is to put that whole Affair under the sole Care and Management of an incorporate Body of Gentlemen and others, who would make it their Business duly and truly to mind and superintend the same. In order to this, I have seen a Scheme, whereby it is proposed, that his Majesty should, pursuant to an Act of Parliament in that Behalf to be made, issue under the Great Seal his Letters Patents into each County of this Kingdom, thereby incorporating several Gentlemen and others, who should have under their sole Inspection and Management, not only the Relieving all the Poor, but also the Mending all the Roads and Highways in every County: And by this Scheme it does plainly appear, that in a few Years there would not be one poor Person, who was not able to work, unreliev'd; nor one poor Person, who was able to work, who would want it; nor one bad Way, capable of being made good, left in the whole Kingdom; and this without any greater Tax or Rate than what is now actually raised for the Poor and Highways. This Scheme is now on Foot, and may be further enquir'd into by any Person curious after such Things.

This

This would prevent the many dismal Objects, who, as so many scandalous Reflections both on Providence and on the publick Laws of the Kingdom, appear now so frequent in our Streets; and who daily tell us, that if he who will not work shall not eat, so he that will labour ought not to starve. Will prevent the Miseries of the Poor.

This would prevent the Children of our Poor being brought up in Laziness and Beggary, whereby Beggary is entailed from Generation to Generation. This is certainly the greatest Charity; for tho' he who gives to any in Want does well, yet he who employs and educates the Poor, so as to render them useful to the Publick, does better; for that would be many Hundred Thousand Pounds *per Ann.* Benefit to this Kingdom.

Providing for the Poor is our Duty both to God and Man; and by doing so, we shall remove one of those crying Sins for which this Land ought to mourn. The Poor being provided for in *Holland, Hamburgh*, and almost in all Countries, much better than here; tho' the Rich live no where in greater Plenty.

But, to put an End to this Digression, into which my Love to God and my Country has drawn me, I shall proceed to treat of the several Statutes now in Force which concern the Poor, who may be divided into two Sorts, *viz.* Two Sorts of Poor.

1. Those who are able, but are not willing to work.
2. Those who are willing, but are not able to work.

Of the first Sort are idle Vagabonds, Vagrants, sturdy Beggars, lewd Women, and their Bastards, &c.

The Statutes relating to these are 18 *Eliz. c. 3.* Statutes relating to Vagrants.  
39 *Eliz. c. 4.* 39 *Eliz. c. 17.* 1 *Ja. 1. c. 7.* 7 *Ja. 1. c. 4.*

But these chiefly relating to Vagrants and idle Rogues, I shall defer the Consideration of them, till I come to treat of the Title *Vagrants*, and, in the mean Time, proceed to the Consideration of those which more particularly relate to those Poor and Indigent who are willing to work, but cannot, and who are therefore entitled not to Punishment, but our Relief. And

Statutes relating to the Poor.

The Statutes relating to these are 43 Eliz. c. 2. 1 Jac. 1. c. 25. 1 Jac. 1. c. 3. 3 Car. 1. c. 4. 13 & 14 Car. 2. c. 12. 1 Jac. 2. c. 17. 3 & 4 W. & M. c. 11. 8 & 9 W. 3. c. 30. 9 & 10 W. 3. c. 10. 12 Ann. c. 18. 5 Geo. c. 8. 9 Geo. c. 7.

43 Eliz. c. 2.

Overseers.

Apprentices.

Overseers Meeting.

43 Eliz. c. 2.

20 s. Forfeiture

1 Jac. 1. c. 25.

Apprentices.

Of which in their Order: And first, by 43 Eliz. c. 2. Church-wardens, and two, three or four Inhabitants of a Parish, to be named in *Easter-Week*, or within a Month after, under the Hand and Seal of two or more Justices, (*Q. 1.*) shall be called Overseers of the Poor, and shall, with Consent of the said two Justices, take Care to set poor Children to work, and all other Persons not able to maintain themselves, by raising weekly, by Taxation of every Inhabitant, Parson, &c. a convenient Stock to work upon, and also Money for relieving the Aged and the Impotent, and for putting out Apprentices.

Overseers must meet once every Month in the Church, on *Sunday*, after Divine Service, in the Afternoon (unless hindered by Sicknes or other just Excuse, to be allowed by two Justices) to consider of the Poor's Wants, and must, within four Days after their Year is expired, and other Overseers named, yield an Account to two Justices of Monies by them received, or rated and not received, and deliver over what remains to Overseers that succeed them. Forfeiture of 20 s. for not meeting as aforesaid, or being otherwise negligent in their Office, and Orders made by two Justices. Where a Parish is not able to relieve themselves, two Justices (*Quor. 1.*) may tax other Parishes and Places, and the Hundred, if necessary. Quarter-Sessions may tax the County in Part, or in Whole, at their Discretions. Two Justices, on Refusal of Payment of the Rates assessed and allowed by two Justices, may grant a Warrant to the Officers to make Distress and Sale: For want of Distress, Commitment till paid; and they may send to the House of Correction those who will not work when appointed there-to. Two Justices (*Quor. 1.*) may commit Church-wardens and Overseers refusing to account, there to remain till they will. Church-wardens and Overseers may put out, with the Assent of any two Justices, (*Quor. 1.*) poor Children Apprentices, where they shall see convenient; Boys till the Age of 24, Girls 21, or Time of Marriage. Officers may build (with Consent of the Lord of the Waste) on the Waste Cottages for poor People, and may make Inmates, any Stat. notwithstanding



withstanding, at the Parish Charge. Those Houses must be employed only for poor and impotent Persons, on Forfeitures contained in 31 Eliz. Persons aggrieved by Officers Assessment, may complain to Quarter-Sessions, who shall take Order therein. Father, Grandfather, Mother, Grandmother and Children of Poor, who cannot work, to be assessed towards their Relief (if of sufficient Ability.) Quarter-Sessions may take Order herein. Persons so rated by Justices shall forfeit 20 s. for every Month they fail of Payment. Officers in Corporations have the Authority as Justices for the County. See the Method where a Parish extends it self into two Counties or Liberties. Justices not naming Overseers forfeit 5 l. Justices Forfeiture to be levied by Quarter-Sessions. All Forfeitures in this Act, for the Use of the Poor, to be levied by Churchwarden or Overseer, by Warrant from two Justices, &c. within their Limits, by Distress and Sale, or Imprisonment, till paid.

20 s.

43 Eliz. c. 4.

20 s.

At Easter Sessions yearly, two Justices, or more, shall rate every Parish at a certain Sum to be paid weekly (not more than Six-pence, nor less than a Half-penny) towards Relief of poor Prisoners in B. R. Marshalsea, Hospitals and Almshouses. Every one respectively to receive out of every County Two pence yearly, which Sum so taxed shall be assessed by the Parishioners within themselves; in Default, by the Church-wardens and Constables of every Parish. On Refusal to pay, one Justice may levy by Distress, or for Want, may commit, &c. 20 s. at the least shall be gathered out of every County for B. R. and Marshalsea, which Sum the Church-wardens shall collect and pay the High Constable quarterly, who must pay it to the Treasurer, and the Treasurer to the Lord Chief Justice. Surplusage of Money remaining in the Stock of any County, shall by the major Part of the Justices be bestowed for the Relief of poor Hospitals of that County, or those that lose by Fire or Water, and other charitable Purposes. Church-warden neglecting his Duty, forfeits 10 s. and the High Constable 20 s. to be levied by the Treasurer, and employed exp. to charitable Uses comprized in this Act. Treasurer neglecting his Duty, forfeits 3 l. to be levied by any two Justices.

39 Eliz. c. 3.

The Statute 7 Ja. 1. c. 3, relating only to putting out poor Children Apprentices, you will see treated of in Title Apprentices.

13

By

By Stat. 3 *Car. c. 4.* Church-wardens and Overseers of the Poor may with Consent of two Justices, (*Qu. 1.*) where there are two, if not, with the Assent of one Justice, set up, use and occupy any Trade, Mystery or Occupation, only for setting on Work and better Relief of the Poor of their Parish.

Church-wardens or Overseers of the Poor complaining to one Justice within 40 Days after any Persons coming into their Parish to settle in any Tenement under 10*l.* a Year, may have such Persons removed (if likely to be chargeable) by two Justices (*Quor. 1.*) of the Division, &c. to such Parish where they were last legally settled, either as a Native, Householder, Sojourner, Apprentice or Servant, for the Space of forty Days, at the least, unless they give Security for the Indemnity of the said Parish, to be allowed by two Justices. Persons aggrieved may appeal to Quarter-Sessions. Persons carrying with them a Certificate from the Minister, one Church-warden and Overseer, of having a Dwelling-House in their Parish, and of their being Inhabitants there, may go into any other Place to work: And, in such Case, if the Persons do not return again to their Habitations when their Work is done, or if they fall sick while they are at Work, it shall not be deemed a Settlement, but may be removed by two Justices to their legal Place of Abode. Persons refusing to go, or returning again, may be sent by one Justice to the House of Correction, and punished as a Vagabond. Church-wardens, &c. refusing to receive such Persons, and to provide for them, one Justice may bind over such Officers, for Contempt, to Quarter-Sessions or Assizes. See the Act in respect to Corporations for erecting Workhouses in *London and Westminster*, &c. and all other Corporations, and about the Government of them. 13 & 14 *Car. 2. c. 12.* See also the Clause whereby Townships in *Lancashire, Cheshire, Derbyshire, Yorkshire, Northumberland, Durham, Cumberland and Westmoreland*, and other Counties, may provide for their Poor as Parishes do. This Statute is made perpetual by 12 *Ann. c. 18.* except what relates to Corporations therein mentioned, to which the Act of 22 & 23 *Car. 2. c. 18.* relating, and being expired, is not here treated of. By Stat. 1. *Jac. 2. c. 17.* confirmed and explained.

Persons going  
to seek Work  
in other Places  
must carry  
with them a  
Certificate  
from, &c.

3 & 4 *W. & M. c. 11.*  
Settlement.

By 3 & 4 *W. & M. c. 11.* Forty Days Continuance in a Parish to make a Settlement, shall be from Publication of Notice in Writing, which he or she shall deliver, of the House of Abode and Number of Family,

mily, if any, to the Church-wardens or Overseers of the Poor; which Notice, the said Church-warden, &c. if required, is to read or cause to be read publicly, immediately after Divine Service in the Parish Church. The first Lord's Day the said Notice to be registred in the Poor's Account Book by the Officer aforesaid. No Soldier, &c. or Workman employed in his Majesty's Service, shall have a Settlement as aforesaid, unless dismissed from his Majesty's Service. 40 s. Penalty for the Officer aforesaid, refusing or neglecting to read such Notice. Conviction by two Witnesses on Oath, before one Justice; to the Use of the Party grieved; for Want of Distress, Commitment for a Month without Bail. Officers aforesaid neglecting to register Notice, forfeit on Conviction, as before, 40 s. to the Use of the Poor, to be levied as before, and committed as before. Person executing any publick annual Office or Charge in a Parish during one whole Year, or shall be charged with and pay his Share towards the publick Taxes or Levies of the Parish, shall be deemed to have a legal Settlement there, tho' no Notice in Writing is delivered, or, &c. any unmarried Person not having a Child, &c. that shall be lawfully hired into any Parish for one Year, shall also make a Settlement without Notice. Being bound Apprentice by Indenture, and inhabiting in any Town, &c. such Binding and Inhabitation shall be a good Settlement, without Notice, &c. as aforesaid. Persons aggrieved may appeal to Quarter-Sessions, who may finally determine.

Church-warden, &c. refusing to receive any Person sent by Order of two Justices, forfeit 5 l. to the Poor of the Parish from which the said Person is removed. Proof by two Witnesses on Oath before any Justice of the County, &c. by Distress and Sale; for want, to be committed for forty Days without Bail, &c. A Book shall be kept in every Parish, wherein the Names of all those that receive Collection shall be registred, with the Day and Year when first admitted to have Relief.

Parishioners in *Easter Week* yearly, or oftner if necessary, must meet in the Vestry, and make new Lists for the Poor, and none but those in the List allowed to receive Alms, but by Authority under the Hand of one Justice residing in such Parish, if any, or else near adjoining, or by Order of Sessions, except in Cases of Plague and pestilential Diseases, &c. Parishioners,



rishioners, except Almsmen, may be Evidence against Church-wardens, &c. of their mis-spending the Poor's Money.

8 & 9 W. 3.

c. 30.

Certificate.

Persons coming to any Parish to inhabit, shall at the same Time bring a Certificate to the Church-wardens or Overseers of the Poor of the Parish where such Person shall come to inhabit, under the Hands and Seals of the Church-wardens, &c. of any other Parish, or the major Part of them, or of Overseers only, if there are no Church-wardens, to be attested by two Witnesses, thereby owning and acknowledging the said Person mentioned in the Certificate to be an Inhabitant legally settled in that Parish, &c. Every Certificate being subscribed and allowed by two Justices, shall oblige the Parish to receive and provide for the Person mentioned in the Certificate, together with the Family, as Inhabitants of that Parish, whenever they shall become chargeable to, or forced to ask Relief of that Parish, &c. to which such Certificate was given; and then, and not before, it shall be lawful for any such Person, and his or her Children, tho' born in the Parish, (not having otherwise acquired a legal Settlement there) to be removed to the Parish, &c. from whence such Certificate was brought. Persons receiving Alms shall have a Badge publicly on the right Shoulder-Sleeve, with Wife and Children (such Child only excepted as shall be by Officers of the Poor permitted to live at Home, in order to take Care of an impotent Parent.) Person refusing, &c. shall, on Complaint to one Justice, have their Relief suspended, abridged or withdrawn, or may be sent to the House of Correction for not more than One and Twenty Days, to be whipped and kept to hard Labour. Church-warden or Overseer relieving any Person not having and wearing a Badge, being convicted on Oath of one Witness before one Justice, shall forfeit 20 s. by Distress, &c. by Warrant from one Justice, to the Poor and Informer. Justices at Quarter-Sessions, on Appeal to them about Settlement of any poor Person, or on Notice of Appeal, &c. tho' such Appeal is not prosecuted, shall award Costs for whom Appeal is determined, or to whom such Notice did appear to have been given. Proof must be made of Notice to Persons ordered to pay Costs living out of the Jurisdiction, &c. Justice of the County where such Person inhabits, on Request to him made, with a Copy of the Order, and Costs produced, shall cause Money to be

Badge.

be levied by Distress, &c. for Want Commitment for twenty Days. Persons not having Child or Children, shall not gain a Settlement in any Parish, unless they shall continue in a Service the Space of Service, one whole Year. Persons refusing to take Apprentices put to them by 43 Eliz. forfeit 10 l. to be levied by Distress and Sale of Goods, by Order of two Justices.

No Person whatsoever who shall come into any Parish by any such Certificate, shall by any Act whatsoever be adjudged to have procured a legal Settlement Certificate, in such Parish, unless he shall really or bona fide take a Lease of a Tenement of the yearly Value of 10 l. or shall execute some annual Office in such Parish, being legally placed in such Office.

Appeal against an Order for Removal, to be determined at Quarter-Sessions, and not elsewhere. Provision for Justices for the Liberty of St. Alban's.

Apprentice, or hired Servant to one who came into the Parish by Certificate, and not having afterwards gained a legal Settlement in the said Parish, such Apprentice or Servant shall not gain any Settlement by Reason of such Apprenticeship or Serving therein, but shall have their Settlement in such Parish, as if they had never been bound Apprentice, or been hired as a Servant.

By 5 Geo. c. 8. Church-wardens and Overseers of the Poor of the Parish, where any Wife, Child or Children shall be left by Husband or Parents, a Charge to the Parish or Place, may upon Application to and an Order from two Justices, take and seize so much of the Goods and Chattels, and receive so much of the annual Rents and Profits of the Lands and Tenements of such Husband, Father or Mother, as such two Justices shall order towards the Discharge of the Parish, or, &c. where such Wife, Child or Children are left: Which Order being confirmed at next Quarter-Sessions, it shall be lawful for the Justices of such Quarter-Sessions to make an Order for the Church-wardens or Overseers for the Poor of such Parish to dispose of such Goods and Chattels by Sale or otherwise, or so much of them as shall be ordered by the Sessions of his or her Lands and Tenements, for the bringing up and providing for such a Wife, Child or Children. Church-wardens or, &c. to be accountable to the Justices at Quarter-Sessions for Money received by Virtue of this Act.

Note, It must be in such Parishes only where such Child, &c. was born, or last legally settled.

By

9 Geo. c. 7.  
Houses for  
the Poor.

By Stat. 9. Geo. cap. 7. no Justice of Peace shall order Relief to any poor Person, before Oath be made, before such Justice, of reasonable Cause, and that the Person had applied to the Parishioners at some Vestry or publick Meeting, or to two of the Overseers of the Poor of the Parish, and was by them refused to be relieved, and until the Justice hath summoned the Overseers to shew Cause why Relief should not be given, and the Person so summoned be heard, or hath made Default in not appearing.

9 Geo. c. 7.

Persons ordered by Justices to be relieved are to be registred in the Parish-Books, as those who are to receive Collection, as long as the Cause for Relief continues, and no longer; and no Officer of any Parish (except upon emergent Occasions) shall bring to the Parish Account any Money he shall give to the Poor not registred, on Pain of forfeiting 5*l.* leviabie by Distress, by the Warrant of two Justices, for the Use of the Poor of the Parish, at the Direction of the said Justices.

Church-wardens and Overseers of the Poor of any Parish, with the Consent of the major Part of the Inhabitants, may purchase or hire any House or Houses in the Parish or Place, and contract with Persons for the lodging, keeping and employing of the Poor; and there they are to keep them, and take the Benefit of their Work and Labour, for the better Maintenance and Relief of such Persons: And in case any Poor shall refuse to be lodged, kept and maintained, in such House or Houses, he shall be struck out of the Parish-Books, and not be entitled to Relief.

Where Parishes are small, two or more of such Parishes, with the Approbation of a Justice of Peace, may unite in purchasing or hiring Houses for the Purposes aforesaid. And Church-wardens, &c. of one Parish, with the Consent of the major Part of the Parishioners, may contract with the Church-wardens, &c. of any other Parish, for the Lodging and Maintenance of the Poor.

But no Poor or their Apprentices, Children, &c. shall gain a Settlement in the Parish, Town or Place to which they shall be removed, by Virtue of this Act.

No Person shall gain a Settlement in a Parish, by Virtue of any Purchase therein, for which the Consideration doth not amount, *bona fide*, to 30*l.* for any longer Time than such Person shall inhabit in the Estate



State purchased, and then shall be liable to remove to the Place where last legally settled.

Persons taxed to, and duly paying the Rates to the Scavengers, or to the Highways, shall not thereby gain any legal Settlement in any Town or Parish.

No Appeal from any Order for Removal of any Poor shall be proceeded upon at the Quarter-Sessions, unless reasonable Notice be given by the Church-wardens or Overseers of the Poor of the Parish making the Appeal to the Church-wardens, &c. of the Parish, from which such poor Person shall be removed; and if reasonable Time of Notice be not given, the Justices may adjourn the Appeal to the next Quarter-Sessions.

If the Justices at the Quarter-Sessions, upon Appeal, shall determine in Favour of the Appellant, they are to order the Appellant so much Money as shall be reasonably expended by the Parish, on whose Behalf the Appeal was made, for the Relief of the poor Person, between the Time of undue Removal, and the Determination of the Appeal; to be recovered in like manner as Costs and Charges, upon Appeal, are by 9 W. 3.

This is a short Abstract of all the Laws now in Being relating to the Poor; what I have to add further about the Poor, may be ranged under the following Heads, viz.

**Alms.**

**Apprentices. Vide Apprentices.**

**Appeals.**

**Bastards. Vide Bastards.**

**Briefs.**

**Certificates.**

**Cottages. Vide Cottages.**

**Families left on Parishes.**

**Work-**

**Work-Houses.****Orders of Justices.****Overseers of the Poor.****Parishes and Parishioners.****Penalties and Forfeitures.****Plague. Vid. Plague.****Poor Prisoners.****Rates and Assessments.****Removals.****Servants. Vid. Apprentices.****Settlements.****Vagrants. Vid. Vagrants.**

**Alms.**  
Any Person  
may relieve  
the Poor pri-  
vately, but  
Parish Poor  
must be regi-  
stered.

and wear a  
Badge.

And first, as to Alms: All Persons may relieve any Poor they think fit by private Alms; but to intitle any to the Relief of the Parish, their Names must be registred once a Year in the Parish-Book, unless authorized by Warrant under the Hand and Seal of a Justice of Peace of the Parish; or, in Case there be none there, by the next Justice, or by Order of Sessions, except in Cases of Pestilential Diseases, the Plague, or Small Pox. 3 & 4 W. & M. c. 11.

Every Person receiving Relief, and their Wives and Children, shall, upon the right Sleeve of their uppermost Garment, wear the Badge of a Roman P. and the first Letter of the Name of their Parish; and Officer relieving any not wearing such Badge forfeits 20 s. 8 W. 3. c. 30.

No Justice of Peace shall order Relief to any poor Person, until Oath made before him of reasonable Cause, and that the Person had applied to the Parishioners at some Vestry or Publick Meeting, or to two of the Overseers of the Poor of the Parish, and was by them refused to be relieved; and until the Justice hath summoned the Overseers to shew Cause why Relief should not be given.

A Justice's Warrant to relieve a poor Person according to the Stat. 9 Geo. c. 7.

To the Church-wardens and Overseers of, &c.

Essex. ff. **W** Hereas A. B. of your Parish hath made Oath before me J. S. Esq; one of his Majesty's Justices of the Peace for the County of, &c. that he is very poor and impotent, and utterly unable to provide for himself and Family, so that they must inevitably perish, unless timely relieved; and that he the said A. B. on, &c. past, applied himself to the Parishioners of your Parish, at a Publick Meeting, as the Law directs, and was by them refused Relief: And I having summoned you, the Overseers of the Poor of the said Parish to shew Cause why Relief should not be given to the said A. B. but you not having made any sufficient Cause appear: These are therefore, in his Majesty's Name, to command you to pay unto the said A. B. the Sum of 2 s. per Week for and towards the Support and Maintenance of the said A. B. and his Family, until such Time as he the said A. B. shall be better able to provide for the same, or that you shall be otherwise ordered to forbear the said Allowance. Given, &c.

Apprentices. See Title Apprentices.

Appeals.

**A** Appeals may be brought to the Quarter-Sessions by any grieved with any Rate or Tax, or other A& done by Church-wardens and other Persons, or by Justices of Peace. In Cases of Settlements and Removal of the Poor, the Justices in their General Sessions shall make such Order therein as they shall think convenient



Justices may  
order Costs on  
Appeal.

If live in ano-  
ther County,  
the Justice, on  
Copy of the  
Order, may  
make a War-  
rant, &c.

No Appeal to  
be proceeded  
on, till Notice  
given, &c.

convenient, and the same conclude and bind all Parties. 43 Eliz. c. 2.

Justices, upon any Appeal in their General or Quarter-Sessions concerning the Settlement of any Poor, or upon Proof made of Notice of such Appeal given, tho' not afterwards prosecuted, shall order to the Party for whom the Appeal shall be determined, or to whom such Notice was given, such Costs and Charges in the Law, as they shall think reasonable. 8 & 9 W. 3. c. 30.

And if the Person ordered to pay such Costs live out of the Jurisdiction of the Court, any Justice of the County, &c. where he lives, on producing a Copy of the said Order, and proving the same by one credible Witness, by Warrant under his Hand and Seal, is to cause the Money mentioned in the Order to be levied by Distress and Sale of the Goods of the Person ordered to pay; and if no Distress can be had, may commit such Person to the common Gaol for twenty Days. *Ibid.*

No Appeal from any Order for Removal of a poor Person, shall be proceeded upon at Quarter-Sessions, unless reasonable Notice be given by the Officers of the Parish making the Appeal, to the Officers of the Parish from which such poor Person shall be removed; and if reasonable Time of Notice be not given, Justices may adjourn the Appeal to the next Quarter-Sessions. And if the Sessions determine the Appeal in Favour of the Appellant, they are to order such Appellant to much Money as shall be reasonably expended by the Parish, on whose Behalf the Appeal was made, for the Relief of the poor Person, between the Time of undue Removal and the Determination of the Appeal; to be recover'd in like manner as Costs and Charges upon Appeal. 9 Geo. c. 7.

No Appeal lies from the Quarter-Sessions to the Judges of the Assize, &c. 2 Balst. 355.

A No-

## A Notice of Appeal.

To the Church-wardens and Overseers of, &c.

**T**HIS is to inform you, and every of you, that we the <sup>9 Geo. c. 7.</sup> Church-wardens and Overseers of the Poor of the Parish of, &c. do intend at the next Quarter-Sessions of the Peace to be holden for the County of, &c. to commence and prosecute an Appeal against you the Church-wardens and Overseers of the Poor of the Parish of, &c. aforesaid, for and concerning the unjust Removal of A. B. from your said Parish of, &c. to our Parish of, &c. of which you are to take due Notice. Witness, &c.

**Bastards.** See Title **Bastards.**

*Briefs and their Management.*

By Stat. 4 & 5 Ann. cap. 14. Copies of Briefs, to Briefs. the Number required, are to be delivered to the Petitioners by the Queen's Printer, and no more, who, immediately after Receipt, are to give a Re- Receipt to be receipt for the same, expressing the Number; the given for Printer to deliver the Receipt or Copy, to be filed in Briefs, the Register's Office in Chancery. When the Copies of Briefs are delivered to the Wardens of Churches and Chapels, &c. immediately after Receipt they are to indorse the Time of Receiving, with their Names and endors'd thereon, and forthwith deliver them over to the Ministers by Minister and Curates, who are likewise to endorse the and Church-wardens, &c. Time of their Receipt, and their Names, in like Manner as the Church-wardens.

The Ministers, Curates and Preachers, on some Sunday in two Months after Receipt thereof, are, immediately before Preaching, openly to read such Briefs in their respective Places of Meeting; and the Church-wardens shall collect the Money that shall be given there, or go from House to House, &c.

The

Sums to be  
endorse'd.

The Sums collected, Place and Time are to be endorsed in Words at length, and signed by the Minister, Curate, and Church-wardens, and by the Teacher and two substantial Persons of separate Congregations; and the Briefs endorsed, and Monies collected shall be delivered to the Persons undertaking the Brief, under the Penalty of 20*l*. The Undertakers not demanding the Briefs and Monies in six Months, are liable to the same Penalty.

Penalties.

And all the  
Briefs to be re-  
turn'd, and  
Register to be  
kept.

If the whole Number of Briefs be not returned, the Undertaker for every Copy wanting, shall forfeit 50*l*. unless he make sufficient Proof in Chancery of the Briefs being lost by inevitable Accident, and of the Money collected thereupon. And a Register is to be kept by all Teachers, of all Monies collected, inserting the Occasion of the Brief, and the Time when collected; to which all Persons may have a free Resort.

Indorsement  
to be printed.

On the Back of the printed Copy shall be printed the Form of Indorsement, with Blanks for Time, Place, and Sum of Money, to be filled up; which Copy (before carried where the Collection is to be made) shall be stamped by the Register of the Court of Chancery) who is to see that no greater Number be stamped than is in the Receipts given to the Printer. Counterfeiter of Stamps convicted, to be set on the Pillory.

How the Mo-  
ney is to be  
accounted for.

The Undertakers in two Months after the Receipts of the Monies and Notice to Sufferers, are to account before a Master in Chancery, to be appointed by the Lord Chancellor. The Master may make Allowances to, and examine Fraud in Undertakers and their Agents; and the Lord Chancellor may fine such Offender: Which Fine and all Forfeitures of the said Undertakers and Agents, shall be only for the Benefit of the Sufferers, and be recovered by Order of the Court of Chancery, founded on such Report confirmed.

Penalties how  
to be levied.

Provido that all Penalties inflicted on others than Undertakers and their Agents, shall be recovered by Action of Debt, Bill, Plaint, or Information.

Briefs not to  
be farmed.

All Farming and Purchasing such Charity Money is declared unlawful: And all Deeds of Covenant and Agreement concerning the same shall be void. And each Person agreeing to purchase the Benefit of such Brief, shall forfeit 500*l*. for the Benefit of the Sufferers.

Penalty.

A Cer-



*Certificates.*

**A Certificate for obtaining a Brief upon a  
Loss by Fire.**

To the Right Hon. the Lord High Chancellor  
of Great Britain, or Commissioners for the  
Time being :

**W**E his Majesty's Justices of the Peace for the  
County of S. do certify your Lordship, That at  
his Majesty's Court of general Quarter-Sessions of the  
Peace, holden at M. for the said County of S. on Monday  
the 10th of March last past, it did then and there appear  
unto us the said Justices sitting in open Court, as well up-  
on the Oaths of A. B. and C. D. Carpenters, and E. F.  
and G. H. Bricklayers, as also upon the Oaths of J. K.  
and L. M. two of the most substantial Inhabitants of the  
Town of W. within the said County of S. That on Mon-  
day the 24th Day of February last past, between Eight  
and Nine of the Clock in the Evening of the same Day, by  
Casualty and great Mischance, a sudden and terrible Fire  
did break forth at the said Town of W. which by Reason  
of the Fierceness thereof (within the Space of six Hours)  
burnt down and consumed the dwelling Houses, Barns, Sta-  
bles, Cow-houses and Out-houses of above Ten of the Inha-  
bitants of the said Town of W. together with their Corn,  
Hay, and most of their several Goods and Household-Stuff,  
to the great Danger of the Bodies of them and their Fami-  
lies, and to their exceeding great Loss and Impoverishment :  
And that the whole Loss sustained thereby did amount to  
3000l. and upwards, so that the said Inhabitants, with  
their Families, are totally impoverished, and are no ways  
able to subsist, but must necessarily perish, unless they shall  
be timely relieved by the charitable Benevolence of well-dis-  
posed People. And we do farther certify, that we have  
taken Bond of several of the Inhabitants, that no Part of  
the Money collected shall be applied to the Benefit of any  
Landlords or other Person of Ability, either in rebuilding  
his House, or otherwise ; nor that the said Inhabitants shall  
assign over their Collections to any other Person or Persons  
whatsoever. In Witness whereof, &c.

## Certificates.

By Stat. 8 & 9 W. 3. c. 30. A poor Man has Liberty to remove from one Parish to another for Work and the better Maintenance of his Family, by Certificate under the Hands and Seals of the Church-wardens and Overseers of the Poor, or the Overseers, where there are no Church-wardens, acknowledging the Person to be an Inhabitant legally settled in their Parish.

## How to be attested.

This Certificate must be attested by two credible Witnesses, and allowed and subscribed by two Justices, and then delivered to the Officers of the Parish to which the poor Man removes; and the poor Man shall remain in this Parish until he wants Relief, when the first Parish is obliged to receive and to relieve him.

## Gain no Settlement, unless rent 10l. per Ann. or execute a Parish Office.

But by 9 & 10 W. 3. c. 11. Poor Persons coming into any Parish by Certificate, shall not gain any legal Settlement without *bona fide* taking a Lease of a Tenement of 10l. *per Ann.* or legally being put in and executing some annual Parish Office.

And by Stat. 12 Ann. c. 18. If any Person residing in a Parish by Certificate, shall take an Apprenticeship or hire a Servant, such Apprentice or such Servant shall not be adjudged to gain any Settlement in such Parish, unless the Master hath gained a legal Settlement there.

## Parish bound by their Certificate.

If a Parish by Mistake give one a Certificate of his being their Parishoner, and afterwards discovers him to be settled at a third Place, they must indemnify the Parish which received him, only on Account of the Certificate; but it does not estop the Parish which gave the Certificate as to other Parishes: And yet it is a strong Evidence of his Settlement there, though not a conclusive One. *Trin. 2 Ann. B. R.*

A Cer-

## A Certificate of a Man's being a Parishioner in a Parish.

To the Church-wardens and Overseers of the Poor, &c.

**W**E the Church-wardens and Overseers of the Poor of the Parish of, &c. in the County of, &c. hereby certify that we do own and acknowledge A. B. Labourer, and E. his Wife, to be both Inhabitants, legally settled in our said Parish of, &c. And we do hereby promise for Ourselves and Successors, to receive them into our said Parish when-ever they shall become chargeable. In Witness whereof we the said Church-wardens, &c. have hereunto respectively set our Hands and Seals.

Witness

J. L. Rector.  
T. W. &c.

C. D. }  
E. F. } Church-wardens.

G. H. }  
J. K. } Overseers.

We whose Names are hereunto subscribed, two of his Majesty's Justices of the Peace, of and for the County of, &c. do allow of the above Certificate.

J. S.  
P. M.

By 13 & 14 Car. 2. c. 2. Persons in Time of Har- Certificate to  
vest, or at any Time to get Work, may go into any go and see for  
County, Parish, or Place, so as they carry with them Work, &c.  
Certificates from the Minister of the Parish and one  
of the Church-wardens and Overseers of the Poor,  
that they have a Dwelling in their Parish, and are  
Inhabitants there; and such Persons are to return to  
their own Parishes when their Work is finished; or a  
Justice of Peace may send them to the House of  
Correction to be punished as Vagrants. And if such  
Persons fall sick, &c. two Justices of Peace may  
order them to be conveyed back to the Place of  
their Habitations.

K a

Church-



Church-wardens or Overseers refusing to receive such Persons, &c. are to be bound over to the Assize or Sessions, and there be indicted and punished.

*Families left on Parishes.*

Families left on Parishes.

7. Ja. 1. c. 4.

Persons leaving their Families on Parishes, how to be punished.

Are Vagrants.

Church-wardens may seize their Lands, &c.

Person in whose Hands Money is, should have Notice, &c.

**B**Y Statute 43 *Eliz. c. 2.* Where any Person able to labour shall run away from a Parish, and leave his Family behind him, on Information thereof given upon Oath, two Justices of Peace may commit him to Gaol, there to remain, and be punished as an incorrigible Rogue. And if any Man or Woman able to work shall threaten to run away and leave their Families upon the Parish, the same being proved by two Witnesses before two Justices, the Person so threatening shall be sent to the House of Correction, &c. unless sufficient Security be given for the Discharge of the Parish.

By Stat. 12 *Ann. c. 23.* All Persons able in Body, who run away and leave their Families to the Parish, are declared Vagrants, and punishable as such.

By 5 *Geo. c. 8.* Where any Wife, Child, or Children shall be left upon a Parish, the Church-wardens or Overseers of the Poor, upon Application to, and by Warrant from two Justices of the Peace, may seize so much of the Goods and Chattels, and receive so much of the Rents and Profits of the Lands and Tenements of the Husband, Father or Mother of such Wife or Children, as the Justices shall direct for the Discharge of the Parish in providing for such Wife or Children: Which Warrant being confirmed at the next Quarter-Sessions, the Justices at the Quarter-Sessions may make an Order for the Church-wardens or Overseers, to dispose of the Goods or Chattels by Sale, and to receive the said Rents and Profits of the Lands and Tenements, or so much of them as they think fit for the Purposes aforesaid. And the Church-wardens, &c. are to be accountable to the Justices in Sessions for all such Money as they receive.

But then it seems but reasonable that the Party in whose Hands the Money is, should not be bound by this Statute until he has Notice of the Warrant; and such Notice should be given before the Warrant is confirmed by the Sessions, that the Party may there appear, and if he can, shew cause against it.

A Com-

**A Commitment of a Person for running away and leaving his Family on the Parish.**

**W** Hereas A. B. and C. D. Overseers of the Poor of the Parish of, &c. have made Information upon Oath before us E. F. and G. H. Esqrs. two of his Majesty's Justices, &c. That J. K. of, &c. a Person able to work and maintain himself and his Family, did on, &c. last past, run away from the said Parish of, &c. aforesaid, and leave his Family upon the said Parish, contrary to the Acts of Parliament in that Case made: These are therefore in his Majesty's Name, to command you the Constable, &c. that you apprehend the said J. K. if he be within your Liberty, and him safely convey to the Gaol of, &c. aforesaid, and deliver him to the Keeper thereof: Hereby also requiring you the said Keeper, to receive the said J. K. into your Gaol, and him there to keep until he shall be from thence delivered by due Course of Law. Given, &c.

If Justices of Peace in Sessions, make Orders for Parishes to provide Houses, or to give any Persons Maintenance, who are not impotent, but able to work, or having any thing to live upon, those Orders are against Law.

*Work-Houses.*

**B**Y Work-houses I do not mean the Bridewells, or Houses of Correction established in each County by 39 Eliz. c. 4. and 7 Jac. 1. c. 4. because the Treating of them will come more properly under the Title *Vagrants*; but those established pursuant to the Stat. 43 Eliz. c. 2. 3 Car. 1. c. 4. 13 & 14 Car. 2. c. 12. 7 & 8 W. 3. 2 Anne c. 8. & 9 Geo. c. 7.

By 43 Eliz. c. 2. The Overseers of the Poor are Overseers are to take Order with Consent of two Justices, at all to set the Times to set to Work such Children whose Parents are not able to maintain them; and also all such Persons as are out of Employment, and have no visible daily Trade of Life to get their living by; and also to raise weekly, or otherwise, (by Taxation of every Inhabitant of the Parish, &c. in such Sums as they shall think fit) a convenient Stock of Flax, Hemp, Wool, Thread, Iron, &c. to set the Poor to Work.

K 3

By

May set up  
any Trade,  
&c.

By Stat. 3 *Car. 1. c. 4.* One Justice of Peace may give his Consent to the Church-wardens and Overseers of the Poor, for their erecting, using, and carrying on any Trade, Mystery, or Occupation, for the employing, setting to Work, and better Relief of the Poor of their Parish. And any one Justice may send to the House of Correction, or Common Gaol, such as shall not employ themselves in Work, being appointed thereto by the Church-wardens and Overseers of the Poor of the Parish. *Dult. 148.*

Corporation  
for setting the  
Poor to Work  
established.

But these Statutes having been found ineffectual, as to the employing the Poor and setting them on Work, in the 13 & 14 Years of *K. Charles 2.* another very good Law was made for erecting of Corporations within the Bills of Mortality, whose sole Business it should be to take care of, and to employ the Poor; pursuant to which there was a Corporation erected in the City of *London*, who rightly observing that the Poor could neither be so well taken care of nor set to Work, while they remained dispersed in a thousand By-holes and Corners where they lived, as they might be, in Case they were all to inhabit together in some proper Place to be provided for them, purchased a large House in *Bishopsgate-Street* for that Purpose, where a great Number of Poor, but especially Children, are maintained and religiously Educated, and employed in Spinning of Wool, Knitting, or Sewing, &c. They are dieted and clothed, and taught to read, write, and cast Account, whereby they are qualified for Services and Employments; and are accordingly placed forth Apprentices, and to Services.

London Work-  
house.

By this Act Power is granted for the President and Governors of this Corporation, to purchase or take any Lands, Tenements, and Hereditaments, not exceeding 3000*l. per Ann.* and any Goods or Chattels whatsoever, of the Gift, Alienation, or Devise of any Person or Persons.

Bristol Work-  
house.

This Corporation in *London*, having met with such good Success, a Stat. was made 7 & 8 *W. 3.* for the erecting such a Corporation in the City of *Bristol*, by the Name of the Governour, Deputy-Governour, Assistants, and Guardians of the Poor. This Corporation hath the Care of, and Providing for all the Poor of the said City, except such as are provided for by charitable Gifts, or in Hospitals, or Alms-Houses; and may purchase, take, or receive any Lands, &c. and of causing Rogues, Vagrants, Beggars,



gars, &c. to be apprehended, and set at Work in their Work-houses.

This produced another Act, in the 2d and 3d Year of Q. Anne, for erecting a Corporation for providing for the Poor in the City of Worcester, called by the Name of the Guardians of the Poor of the City of Worcester, and is impowered to hold Courts, summon Persons, &c. and also to provide Materials for setting the Poor to Work, compel idle Persons, and Poor receiving Alms, and poor Children, to dwell and work in Work-houses, &c.

And they have Authority to contract with any Parish in the County of Worcester, for the receiving, employing, and setting to Work, Poor in their Work-houses, &c.

These Corporations and Work-houses being thus set up and established in particular Places with good Success, at length produced the general good Statute made 9 Geo. c. 7. whereby it is enacted that the Church-wardens and Overseers of the Poor of any Parish (with the Consent of the major Part of the Parishioners) may purchase or hire any House or Houses in the Parish or Place, and contract with Persons for the Lodging, Keeping, and Employing of poor Persons; and there they are to keep them and take the Benefit of their Work and Labour for the better Maintenance and Relief of such poor Persons. And in case any poor Person shall refuse to be lodged, kept and maintained in such House or Houses, he shall be struck out of the Parish-Books, and not be entitled to Relief.

Where Parishes are small, two or more of such Parishes, with the Approbation of a Justice of Peace, may unite in purchasing or hiring Houses for the Purposes aforesaid. And Church-wardens, &c. of one Parish (with the Consent of the major Part of the Parishioners) may contract with the Church-wardens, &c. of any other Parish, for the Lodging and Maintenance of Poor.

But no poor Persons, or their Apprentices, Children, &c. shall acquire any Settlement in the Parish, Town, or Place, to which they shall be moved, by Virtue of this Act.

This Statute has had such excellent Effect, that I have now by me a true and full Account of no less than One Hundred and Thirty Work-houses, already set up and established in England; and more are setting

ting up every Day, whereby the Poors Rates are decreased one Third, if not one Half, in most of the Places where such Work-houses have been set up.

### A Contract for Lodging and Maintenance of Poor, by Virtue of the Stat. 9 Geo. c. 7.

**M**emorandum, It is contracted this Day, &c. in the Year, &c. between A. B. and C. D. Church-wardens, and E. F. and G. H. Overseers of the Poor of the Parish, &c. and J. K. and L. M. of, &c. Yeomen, that they the said J. K. and L. M. or one of them, shall and will, during the Space of, &c. next coming, at their or one of their own proper Costs and Charges, in the House of, &c. find, provide, and allow, or cause to be found, provided, and allowed unto, and for N. G. P. Q. R. S. &c. poor Persons of the Parish of, &c. aforesaid, sufficient Lodging, Meat, Drink, and all other Things necessary for their and every of their Keeping and Maintenance; they the said J. K. and L. M. being paid and allowed by them the said A. B. C. D. E. F. &c. the Church-wardens and Overseers of, &c. aforesaid, the weekly Sum of &c. for the same; which they the said A. B. C. D. E. F. &c. do hereby covenant for Themselves and their Successors, well and truly to pay or cause to be paid to the said J. K. and L. M. as the same shall become due: Or they the said J. K. and L. M. being allowed the Work, Labour, and Service of them the said N. O. P. Q. R. S. &c. from Time to Time, in such Work and Labour as they the said J. K. and L. M. shall think fit to employ them about. In Witness, &c.

### Orders of Justices.

Orders of  
Justices.

**J**ustices that make Orders must be said in such Orders to be Justices of the County, and to say, residing in the County, is not sufficient. But they need not be of the Division. It must also appear that one of the Justices was of the *Quorum*. Salk. 474. 480.

An Order was made at the Sessions, that a Man should maintain his Daughter, and allow her 1s. 8d. a Week for her Subsistence. The Order was quash'd, because it did not appear by the same that she was unable

able to work, or that she was sick, aged, or impotent, which the Statute requires. 13 W. 3. B. R. *Mendoza's Case*.

At the Quarter-Sessions, an Order was made for the Relief of poor Prisoners in Gaol, and providing Materials to set them at Work upon the Statute 14 Eliz. c. 5. and 19 Car. 2. c. 4. whereby a Sum was assessed on the several Parishes, not exceeding what is allowed by both Acts. But the Order was quash'd, because the Justices ought to have made distinct Orders upon the different Statutes. *Salk. 487.*

An Indictment for not obeying an Order made on 43 Eliz. c. 2. was quash'd, because the Order was only said to be made at the Quarter-Sessions, and not at the General Quarter-Sessions. And the 43 Eliz. appoints Orders in these Cases to be made at the General Quarter-Sessions. *Salk. 474.*

Authority given to Justices of Peace, must be exactly pursued; and so it ought to appear in their Orders and Determinations. And Orders of Justices being judicial Acts, are not absolutely void in themselves, but voidable, and continue Orders till avoided. 2 *Salk. 475, 674.*

The Order of two Justices not appealed from, binds the Parish, upon which it is made, till a new Settlement is gain'd. An Order reversed is final only between the Parties; but an Order confirmed, or not appealed from, is final to all the World. The Sessions may alter their own Orders the same Session: And the Sessions hath power to affirm or quash, and not supersede or suspend an original Order of two Justices, relating to the Removal of a poor Person, &c. *Salk. 472, 492.*

It is a standing Rule in the Court of King's Bench, that if upon an Appeal the Order of two Justices is either affirmed or quashed upon the Merits of the Case, in Relation to Settlements, it shall be conclusive between the two Parishes. *Pasch. 10 Ann. Bishop Waltham vers. Foram.*

Term. *Pasch. 29 Car. 2.* A Motion was made in B. R. to set aside an Order of Sessions for the settling a poor Person in a Parish sent thither by Warrant of two Justices, and confirmed in the Sessions upon an Appeal. And the Court refused to enter into the Merits of the Cause; the Order of Sessions being in this Case final, unless it be made appear that there is an Error in the Form of Proceeding. *Vent. 310.*

B. R. will not enter into the Merits, unless Error in the Proceedings.



## An Order of Sessions for a Father to maintain his Daughter.

Com. B. Ad general' Quarterial' Session' Pacis  
tenr' apud, &c.

**C**omplaint having been made unto this Court by A. B. C. D. &c. Church-wardens and Overseers of the Poor of the Parish, &c. that E. F. of the said Parish, is a very poor impotent Person, and wholly unable to do any work or Service to get her Livelihood, or otherwise to maintain her self: And it having been proved by the Oaths of the said A. B. C. D. &c. that T. F. Father of the said E. F. of the said Parish of, &c. is a Man of Substance and Ability to provide for his said Daughter, but he refuses to do the same, whereby the said E. F. is become chargeable to the said Parish of, &c. It is therefore ordered by this Court that the said T. F. do pay or cause to be paid unto the said E. F. his Daughter, or to the Church-wardens, &c. for her Use, the Sum of 2s. weekly, and every Week, for the Relief and Maintenance of the said E. F. until she be better able to provide for her self, and for the Discharge of the Parish aforesaid, of and from the same.

### Overseers of the Poor.

Overseers of  
the Poor.

Appointed by  
two Justices.

To meet once  
a Month.

**B**Y 43 Eliz. c. 2. Overseers of the Poor of Parishes are to be chosen yearly in Easter week, or within one Month afterwards, by Appointment under the Hands and Seals of two Justices of Peace, (one whereof to be of the *Quorum*) dwelling in or near the Parish or Division where the Parish lieth. Justices neglecting to nominate Overseers, according to the Statute, forfeit 5*l.* leviable on their Goods by Warrant from the General Sessions of the Peace.

Overseers of the Poor, &c. are to meet once a Month in the Parish Church, on *Sunday*, after Divine Service, unless hindred by some Cause to be allowed by two Justices, at which Meeting they are to consider of proper Methods for providing for the Poor; and if they neglect thus to meet, they forfeit 20*s.*

An

# An Appointment of Overseers of the Poor by Justices.

**W**E A. B. and C. D. Esqrs. two of his Majesty's Justices of Peace for the County of, &c. do hereby appoint E. F. and G. H. of, &c. to be Overseers of the Poor of the Parish of, &c. aforesaid, in the said County, for the Year next ensuing the Date hereof, according to the Direction of the Statute in that Case made. Given, &c.

Within four Days after the Overseers Year is up, They are to and after other Overseers are nominated according account when to Law, the old Ones must yield up to the two next their Year is Justices (*Quorum* 1.) a true and perfect Account of up. all Money by them received, or rated and assessed but not received; and also of such Stock as shall be in their Hands, or in the Hands of any of the Poor to work, and of all other Things concerning their Offices, and shall pay and deliver over the same to the new Church-wardens and Overseers.

When the Overseers Books are passed, it is usual Passing their for the two Justices to signify it writ in their Books Accounts. at the Foot of their Accounts.

And if Money be due to the old Overseers, you write thus: viz.

Due to be paid from the new to the old Overseers, 30<sup>l</sup>. 9<sup>s</sup>. 9<sup>d</sup>.

Octob. 11. 1726. Perused and Allowed by us A. B. C. D. two of his Majesty's Justices of Peace for the said County, whereof one is of the *Quorum*.

And if Money be due to the new Overseers, you may say, Remaining in the old Overseers Hands to be paid to the new Ones, 19<sup>l</sup>. 9<sup>s</sup>. 9<sup>d</sup>.

Octob. 11. 1726. Perused and Allowed by us A. B. C. D. two of his Majesty's Justices of Peace for the said County, whereof one is of the *Quorum*.

If the Church-wardens or Overseers refuse to account, then two Justices of the Peace, whereof one is of the *Quorum*, may commit the Person so refusing, to the County Gaol, there to remain without Bail or Mainprize, until he make a true Account, and shall have satisfied and paid so much, as upon the Account shall appear to be remaining in his Hand; which also by Warrant may be levied by Distress. If they refuse they are to be committed.

If make a  
false Account,  
may be in-  
dicted, &c.

If the Overseers make a false Account, they may be indicted. *Dalt. 154.* They may be also indicted for not collecting a Tax, having Notice of the Persons taxed. *3 Keb. 49.*

The Substance of the Overseers Account is what Sums of Money they have received, or rated and not received; what Stock, Wares, &c. they have in their Hands; what poor Apprentices they have put out and bound; whether they have suffered any of their Poor to wander and beg; whether they have met once a Month to consult of these Things; whether they have assessed the Inhabitants and Occupiers of Land, &c. and with Indifferency, whether they have endeavoured to levy such Assessments; if they have relieved the maimed and impotent, and executed their Office, in all Particulars; if they have duly executed Justices Warrants to them directed for levying Forfeitures, &c.

Account for  
all Persons bur-  
ied in their  
Parish.

And they must give an Account of the Name and Quality of every Person buried in their Parishes, and of Certificates come to their Hands from the Parson of such Parishes, that the Persons therein mentioned were not buried contrary to Stat. 30 Car. 2. c. 3. for burying in Woollen, and of their levying the Penalty on Offenders.

To provide for  
the Poor upon  
Exigencies.

Church-wardens and Overseers in present Exigencies are to provide for the Poor, and they shall be re-imburs'd by a Rate; and it is discretionary to give them Money weekly, or to provide for them Victuals, &c. *Styl. 246.*

But not obli-  
ged to disburse  
their own Mo-  
ney.

Overseers of the Poor are not obliged to disburse any of their own Money for the Support of the Poor; but if they do, a Rate ought to be made to reimburse them, though that Rate shall be called the Poores Rate, and not the Overseers Rate. A *Mandamus* does not lie to the Church-wardens and Overseers to make a Rate to reimburse the Overseers, but the Overseer may cause a Rate to be made for that Purpose, and when the Money is levied, pay himself; and if the Justices refuse to sign it, then a *Mandamus* may be directed to them to do it. *1 Keb. Clark ver. Church-wardens of Cripple-gate. Modern Cases 97. Regina ver. Parochiam de Littleport. 2 Keb. Rex ver. Ogden & al.*

May act in  
their Parish,  
though in two  
Counties.

When a Parish extends into two Counties or Liberties, the Justices have not Power to act in that Part which lies out of their Jurisdiction, as to the Nomination of Overseers, giving Warrants to raise Assessments,



seffments, &c. But yet the Overseers of such Parish so extending into several Jurisdictions, may act in the whole Parish; but they must exhibit one Account before the Head-Officer of the Town, and one other before the Justices. Stat. 43 Eliz. cap. 2.

If any Action be brought against Overseers, &c. for any thing done by Authority of this Act, the Defendant may plead Not Guilty, or make Avowry or Justification; to which the Plaintiff shall reply, that the Defendant did it in his own Wrong. Whereupon the Issue shall be tried, and the whole Matter given in Evidence; and if it be found for the Defendant, or the Plaintiff is nonsuited after Appearance, the Defendant is to recover treble Damages and his Costs. The Damages only, but not the Costs, are to be trebled. *Noy 137. Okely vers. — Yel. 176. 1 Roll. Rep. 272. 2 Roll. Rep. 112.*

In Actions brought against Church-wardens or Overseers of the Poor for mis-spending the Parish Money, any Parishioner not receiving Alms, &c. shall be admitted as Evidence in all Courts of Record by Stat. 3 & 4 W. & M. c. 11.

An Overseer accounted before two Justices, and his Account was allow'd, the Parish appeal'd to the Quarter-Sessions, and they disallowed the Account, and order'd him to pay so much over, and for not doing it, committed him. In this Case it was held, that they should have levied the Arrears by Distress, and in Default of a Distress, have committed him; for the Sessions must execute their Judgment in the same manner as the two Justices must do; and the Order was quash'd as to that Part. *Queen against Hodges. Mich. 4 Ann. B. R. Salk. 533.*

And if any such Stock shall be in the Hands of any Poor to work, and such Poor shall refuse to deliver the same, it seems two such Justices may make the like Warrant to levy, &c. and in Default thereof, may commit. *Ut supra.*

If any Overseer lays out Money, he may be reimbursed by general Order of Sessions. *Peckham's Case at Maidstone Assizes; and per Hide, It is good within the Stat. 1 Keb. 236.*

If an Overseer be obstinate, and will not disburse any thing, this is *casus omissus*; yet the Justices may compel him, and make a Tax for the Poor of themselves in the same or another Year; *Per Windham.*

If Action brought against them may have treble Damages.

Anonymus 5 Mod. 76.  
Gardiner vers. Hobbs.  
5 Mod. 71.  
Harcourt vers. Weeks.  
Sessions must execute their Judgment as two Justices must do.

An Order to reimburse was grounded only on Account stated by the Oath of the Party, and never allowed by the two next Justices of Peace; whereupon the Majority of the Justices at *Hicks's Hall* refus'd to grant any new Order. 1 *Keb.* 236, 243. Clerk against the Churchwardens of *Cripplegate*.

It was agreed in *Taverner* and *Quarterman's Case*, that the Church-wardens ought in present Exigencies to provide for the Poor, and they shall be reimbursed. Order was made by the Judges to the Inhabitants of *B.* to reimburse the Overseers of the Poor for Money expended in Suit against some who refused to pay their Rates, and the Court was moved for an Attachment against them, which at last they did. 2 *Keb.* 461. *Res. vers. Ogden, Monk, and Lucas*; and the Court conceived that Costs may be allowed upon the *Certiorari*. 2 *Keb.* 500.

B. R. will  
compel Justices  
to sign the  
Poors Rates.

The Court of B. R. upon Motion, will compel the Justices to sign the Poors Rates, unless they shew Cause to the contrary. The Case of the Inhabitants of *Peterborough*, *Mich.* 20. *Car.* 2. 1 *Siderfin.* 377.

An Overseer is not bound to lay out Money till he receives it; but if he does, he may make a new Rate for the Relief of the Poor, and out of that he may retain to pay himself. *Ex per Cur.*, the Church-wardens and Overseers may make a Rate themselves. *Tanny's Case Hil.* 2. *Ann.* B. R. *Salkeld* 531.

Persons to be  
rated monthly,  
not quarterly.

A Person cannot be rated for a whole Quarter to the Poors Rates, for by the Statute they are to be assessed monthly. *Tracy vers. Talbot, Trin.* 3 *Ann.* *Salkeld* 532.

Overseers of the Poor were indicted before the Justices of the Borough of *Reading*, for not gathering several Sums of Money taxed on several Inhabitants, and not ascertaining them; Counsel excepted to it; but the Court ordered the Parties to plead, having Notice of the Persons taxed. 3 *Keeble* 49. *Res. vers. Brown.*

*Parish*

*Parishes and Parishioners.*

**T**HE Statute 43 *Eliz. c. 2* provides, that there shall be Overseers of the Poor in every Parish; but because several Parishes which are large, and had many Villages in the same, could not reap the Benefit of that Act, therefore by 13 & 14 *Car. 2. c. 12.* it is enacted, That in every Township and Village of *Lancashire, Cheshire, Derbyshire, Yorkshire, Northumberland, Durham, Cumberland, and Westmorland,* and other Counties in *England and Wales,* where (by Reason of the Largeness of the Parishes) they are not within the 43 *Eliz.* there shall be yearly chosen and appointed, according to the Rules of that Act, two or more Overseers of the Poor within every of the said Townships and Villages, who shall from Time to Time do, perform and execute all and every the Acts, Powers and Authorities for the necessary Relief of the Poor within the said Townships or Villages, and shall be liable to such Pains and Penalties for Non-performance thereof as is limited by 43 *Eliz. c. 2.*

A Parish contained two Members, *A.* and *B.* and *A* Village rated *B.* had a Chapel of Ease and a Burying-place, being a long Time reputed a Parish (tho' only a Member of *A.*) and had used to chuse Overseers; it was resolved that Parishes only in Reputation are within the Statute 43 *Eliz.* as other Parishes are, if the Usage of such Parish to chuse Overseers had been constant and without Interruption. 2 *Roll. Rep.* 160. *Littleton's Rep.* 73. *Hil. 2. Car. 1. C. B. Hilton vers. Paul.*

A Parish must have Parochial Rights. 4 *Mod.* 157.

An Order was made by Justices for sending a Person Bridewell Precinct to the Precinct of Bridewell, as his last legal Settlement, he having serv'd seven Years Apprenticeship there; which Order set forth Bridewell to be an extraparochial Place. *Per Holt C. J.* If a Place be extraparochial, and has not the Face of a Parish, the Justices have no Authority to send any Man thither. Possibly a Place extraparochial may be taxed in Aid of a Parish, but a Parish shall not be taxed in Aid of that. *Salk.* 486.

By Virtue of the Stat. 13 & 14 *Car. 2. c. 12.* the Justices may exercise the Powers given by 43 *Eliz.* and that in all extraparochial Places containing more Houses



Qualifications  
of a Pari-  
shioner.

Houses than one, so as to come under the Denomina-  
tion of a Vill or Town. *Salk. ibid.*

A Parishioner is where a Person serves an Appren-  
ticeship to a Parishioner, unless by Certificate, lives  
a Year as a hired Servant, unless to one come into the  
Parish by Certificate, executes any Parochial Office in  
his own Right, pays his Share of Parochial Taxes, un-  
less to the Scavenger or Highways, rents 10 l. per Ann.  
&c. in a Parish.

Case of Totte-  
ridge.

*Hatfield* was a Parish, and *Totteridge* a Village with-  
in the Parish of *Hatfield*, and paid their Tithes to the  
Parson of *Hatfield*, but that *Totteridge* for above sixty  
Years, and at the Time of making the Stat. 43 Eliz.  
was a reputed Parish, and had a Constable and Over-  
seers of the Poor, and that they provided for the  
Poor of *Totteridge*, and never contributed to the Poor  
of *Hatfield*. The Church-wardens, &c. of *Hatfield* make  
a Taxation for the Poor, and tax *Nichols* Plaintiff,  
who had Land, and was an Inhabitant in *Totteridge*,  
which was affirmed by two Justices according to the  
Statute. *Nichols* refusing to pay it, they distrain up-  
on him by Warrant of the Justices of Peace; upon  
which *Nichols* brought Trespass against the Defendants,  
the Church-warden and Overseer of *Hatfield*; and ad-  
judged by the Court, that the Action lies; for a Pre-  
cinct of a Parish is within the Stat. 43 Eliz. and is to  
be assessed by itself, and not with the Mother-  
Church. *Hil. 10. c. 1. Jones Rep. 355. Nichols vers.*  
*Walker & al.*

A Parish in  
Reputation is  
within 43 Eliz.  
c. 2. if, &c.

A Parish in Reputation, tho' really no Parish, is  
within Stat. 43 Eliz. if it were a Parish in Reputation  
when the Act was made; and the Overseers of such  
Parishes in Reputation may make Rates for their  
Poor, and distrain for the Non-payment of them.  
*Cro. Car. 92. Hilton vers. Pawle. S. C. Hutton 93.*  
*S. C. Littleton 73.*

And in such Case, the Inhabitants of the Village  
which hath parochial Rights, and was a Parish in  
Reputation, shall not be taxed to the Poor of the  
Rectory. *W. Jones 355. Walker vers. Carter. S. C.*  
*3 Cro. 394. 1 Roll's Rep. Weeden vers. Walker.*

Otherwise not.

But the making of Rates in a Village which hath no  
parochial Rights, will not exempt the Inhabitants  
from paying to the Poor of the Rectory, for 'tis not  
so much as a Parish in Reputation. *4 Mod. 157. Rad*  
*vers. Fessenden*

Where

Where a Parish, as *St. Botolph without Aldgate*, has but one Church-warden and several Overseers of the Poor, some for that Part of it which is in *London*, and others for that Part which is in *Middlesex*, and the Parish Rates are several; it was resolved, that, without any particular Usage to the contrary, each Part must equally contribute towards the Relief of Children whose Mothers died in either County, because the Statute 43 *Eliz.* names Parishes; but because they had distinct Officers and distinct Rates, and used to make distinct Accounts to the Justices of each County, therefore they shall be taken as distinct Parishes. *Raymond 477.*

Some Parishes are so very extensive, and the several Parts lying at a great Distance, 'twas impossible for the Poor effectually to be relieved by the ordinary Methods of taxing the whole Parish, and the Justices of Peace have no Power to dismember Parishes; no, Justices can't tho' they had been dismember'd formerly; and this was the Reason of the Clause inserted in Stat. 43 *Eliz.* rather. c. 2. relating to the Isle of *Fowlnes*, and also of making the Stat. of 13 & 14 *Car. 2.* afore-mentioned, and which has been adjudg'd to extend to no County that is not therein expressly mentioned. 2 *Sydenh. 292.* *Ree vers. Inhabitants of Ratcliff.* 2 *Keb. 56 & 69.* 2 *Levinz. 172.* *Skillington vers. Norton.*

These Clauses do not extend to Bastards, for they are provided for by the 18th of *Eliz.* But if a Bastard become poor and impotent, then *quatenus* such he may be relieved by Virtue of this Act. *Salk. 123.* *Parish of Budworth vers. Township of Dumphly.*

### *Penalties and Forfeitures to the Poor.*

**B**ESIDES the Method of Relieving the Poor by Parish Rates, the Penalties and Forfeitures imposed by several Statutes are applied to the Use of the Poor, a compleat List of which here follows, *viz.*

Justices of Peace not appointing Overseers of the Poor yearly, incur a Penalty of 5*l.* and Overseers not meeting once a Month to do their Duty, forfeit 20*s.* for the Use of the Poor of the Parish, by 43 *Eliz. c. 2.*

Constables, &c. not levying the Penalties on Alehouse-Keepers suffering People to tipple in their Houses, forfeit 40*s.* Alehouse-Keepers permitting Constables not levying Penalties. *Tippling*

Tippling 10 s. and Persons tippling 3 s. 4 d. to the Use of the Poor. 1 *Ja. 1. c. 9.*

Convicted of Drunkenness.

A Person Convict of Drunkenness, forfeits 5 s. to the Poor. And one keeping an Alehouse without License, 20 s. Officers not presenting him, 40 s. 21 *Ja. 1. cap. 7.*

Swearing and Cursing.

Persons forbearing to go to Church forfeit 1 s. for every Offence. 3 *Ja. 1. c. 4.* And profane Cursing and Swearing, if a Servant, &c. is liable to 1 s. and every other Person 2 s. Second Offence double, and for the third Offence treble. 21 *Ja. 1. c. 20. 6 & 7 W. 3. c. 11.*

All Persons at any Games or Publick Sports on *Sundays*, forfeit 3 s. 4 d. to the Poor. Butchers killing or selling Victuals on *Sundays* forfeit 6 s. 8 d. and Carriers, &c. travelling on that Day, forfeit 20 s. Stat. 3. *Car. 1. c. 1.*

Forfeitures to the Poor.

Keeping false Weights and Measures is 5 s. Penalty, and Clerks of Markets sealing false Weights or Measures, or taking more than they ought for sealing, in the first Case forfeit 5 l. and the latter 10 l. Stat. 16. *Car. 1. c. 19.*

Persons erecting Weirs along the Sea-shore, or in any Haven, &c. and wilfully destroying Spawn of Fish, forfeit 10 l. Half to the Poor. 3 *Ja. 1. c. 12.* Those who take Fish in any Water without the Owners Consent, forfeit not exceeding 10 l. And Destroyers of Conies in the Night on the Borders of Warrens, &c. forfeit the same Sum, for the Use of the Poor. 13 *Car. 2. c. 25.*

Importing Cattle, dead or alive, except for Provision, to forfeit one Moiety to the Poor. 18 *Car. 2. c. 2.* Cattle imported from *Ireland* are liable to Forfeiture and Seizure for the Poor, &c. And Parish Officers neglecting their Duty, forfeit 40 s. for every Bullock, Cow, &c. and 10 s. for every Sheep, &c. Half to the Poor. 32 *Car. 2.*

Persons suspected of stealing Wood, if they cannot give a good Account how they came by it, to forfeit not exceeding 10 s. to the Poor. 15 *Car. 2. c. 2.*

Those who do any thing besides Works of Charity and Necessity on a *Sunday*, forfeit 5 s. Crying or Exposing to Sale any Wares (except Milk, and, by a late Act, Mackarel) to forfeit the same for the Poor. Drovers, Waggoners, Higlers, &c. travelling on that Day, forfeit 20 s. and others using Boats and Wherries without Licence from a Justice, forfeit 5 s. Stat. 29 *Car. 2. c. 7.*

Where



Where a Person is not buried in Woollen, and Affidavit not made that he is so buried, a Penalty is incurred of 5 *l.* one Moiety to the Poor. 30 *Car.* 2. *cap.* 3.

Persons laying Dirt, Ashes, &c. before their Doors, forfeit 5 *s.* Laying rough Stones, Timber, &c. in the Streets, 20 *s.* Not sweeping the Streets before their Doors on *Wednesdays* and *Saturdays*, 10 *s.* Scavengers not bringing their Carts, 40 *s.* Persons not repairing their Pavements, 20 *s.* and 20 *s.* *per* Week till repaired. Every one not hanging out Lights in the Winter 2 *s.* *per* Night. Persons suffering Carts to stand in the Hay-marker, with Hay and Straw to be sold, in the Winter after Two, and in the Summer after Three a Clock, 5 *l.* One Moiety of all which Forfeitures to the Poor. 2 *W. & M.* c. 8.

If any Person unlawfully hunt or wound, &c. any Deer in any Forest or Park, he forfeits 20 *l.* and taking or killing Deer 30 *l.* one third to the Poor. 3 & 4 *W. & M.* c. 10.

Persons unqualified having Game found on them, and not able to give a good Account of it, forfeit not under 5 *s.* nor exceeding 20 *s.* Apprentices Hunting, &c. are liable to the same Penalty; Half to the Poor.

Sellers of Butter committing Frauds, forfeit 20 *s.* Forfeitures to for every Firkin. Warehouse-Keepers, Weighers, &c. the Poor. in any Port, refusing to receive and take Care of Butter and Cheese, forfeit 10 *s.* for every Firkin of Butter, and 5 *s.* for every Weigh of Cheese. And Masters of Ships that come to lade Butter, &c. refusing to do it, forfeit 2 *s.* 6 *d.* for every Firkin of Butter and Weigh of Cheese; one Half to the Poor, by 4 & 5 *W. & M.* c. 7.

Hawkers, Pedlars, &c. trading without Licence forfeit 12 *l.* Refusing to produce their Licence, 5 *l.* Penalty, and Constables, &c. not putting the Laws in Execution, forfeit 40 *s.* one Moiety to the Poor. 8 & 9 *W.* 3. c. 25.

Persons selling Squibs forfeit 5 *l.* and throwing, or aiding those who do throw, or suffering them to be thrown out of Houses, forfeit 20 *s.* one Half to the Poor. 9 & 10 *W.* 3. c. 7.

Selling Ale or Beer in Vessels less than Measure, incurs a Forfeiture not above 40 *s.* nor under 10; one Moiety to the Poor. Head-Officers of Towns, &c. refusing to stamp Measures, forfeit 5 *l.* one Half to the

the Poor. Brewers keeping private Houses, or altering Vessels without Notice, forfeit 50*l.* one third to the Poor. Gaugers taking a Bribe to make a false Return, forfeit 10*l.* Distillers refusing to permit Gaugers to enter their Distilling-Houses, forfeit double Value, &c. 1 *W. & M. cap. 24.* 11 & 12. *W. 3. cap. 15.*

Masters refusing poor Apprentices placed out according to the Statute, to forfeit 10*l.* leviable by Distress and Sale of Goods, for the Use of the Poor. 8 & 9 *W. 3. c. 30.*

If a Church-warden or Overseer of the Poor refuse to receive a poor Person removed by Order of two Justices, they forfeit 5*l.* for the Use of the Poor from whence the Person was removed. 3 & 4 *W. & M. c. 11.*

Church-wardens within the weekly Bills of Mortality, not making Stop-blocks, Fire-pipes, and not keeping in Repair a large Engine, &c. forfeit 10*l.* And Head-builders or Workmen, not building Houses with Party-walls, and the Walls of the Thickness prescribed by the Act, forfeit 50*l.* one Moiety to the Poor. 6 *Ann. c. 31.*

Forfeitures to  
the Poor.

Higlers, Chapmen, Inn-keepers, &c. having in their Custody Hare or other Game, forfeit for every Hare, &c. 5*l.* And unlicens'd Game-keepers killing Hares, &c. or exposing them to Sale, incur the like Penalty, one Moiety to the Poor. 5 *Ann. c. 14.* 9 *Ann. c. 25.*

Fishmongers, &c. selling Fish under the Size and Lengths appointed by the Statute, incur a Forfeiture of 20*s.* to the Poor, and all the Fish. 1 *Geo. c. 18.*

Tailors making, selling or setting on upon Clothes Buttons or Button-holes of Cloth Stuff, &c. forfeit 40*s.* per Dozen, a Moiety to the Poor. 4 *Geo. c. 7.* Tailors giving greater Wages than allowed to Journey-men, forfeit 5*l.* Half to the Poor. 7 *Geo. c. 13.*

Persons receiving or buying Goods clandestinely run without paying the Customs, to forfeit 20*l.* one Moiety to the Poor. 8 *Geo. c. 18.*

Constables neglecting, &c. to execute Warrants for providing Carriages, or Persons appointed by them, refusing to provide Carriages and Men, or hindring the Executing of the Act, forfeit not more than 40*s.* nor less than 10*s.* to the Poor, to be levied by Distress and Sale of Goods. C. 4.

Poor Prisoners.

**T**HE Statutes relating to the Relief of poor Prisoners are 14 Eliz. c. 3. 43 Eliz. c. 2. & 19 Car. 2. c. 4. ers.

By 14 Eliz. Justices of Peace in their General Sessions are to Quarter-Sessions, may tax every Parish in the County towards Relief of poor Prisoners in the Common Gaol for Debt, so as it does not exceed 6d. or 8d. a Week for every Parish, to be levied by Churchwardens every Sunday, and paid once a Quarter to the High Constables or Head-Officers of every Town, &c. who are to pay it to the Collectors appointed by the Justices in their Sessions, under the Penalty of 5l. Relief of poor Prisoners.

By 43 Eliz. Justices of Peace have Power at Easter Sessions yearly, to rate every Parish at a certain Sum, to be paid weekly, no Parish to pay more than 6d. nor less than a Half-penny, towards Relief of poor Prisoners in the King's Bench and Marshalsea, every one respectively to receive out of every County 20s. yearly.

Treasurers for the County, are to be chosen at the said Easter Sessions, who refusing to execute the Office, distribute Relief, or to account, shall forfeit 3l. to be levied by Distress.

By 19 Car. 2. c. 4. Justices in their Sessions may also provide a sufficient Stock to set poor Prisoners to work, committed for Felony and other Misdemeanours, by such ways and means as other County Charges are raised, provided no Parish be rated above 6d. a Week, and they may appoint Overseers, examine their Accounts, and punish Abuses, &c. And to provide a Stock to set poor Prisoners to Work.

Rates and Assessments.

**B**Y 43 Eliz. c. 2. Every Inhabitant and Occupier of Houses, Lands, Tithes, Coal-mines or Un-derwoods, is to be taxed weekly or otherwise, for the Relief of the Poor, according to the visible Estate he hath in the Parish where taxed. This Tax may be made upon Lands or Goods, though one Person is not to be charged for both. Rates and Assessments. All Lands, Tithes, &c. to be rated to the Poor.

When charged on Goods, they are rated according to the usual Value of Land; viz. 100l. Stock of Goods at 5l. per Ann.



Church-wardens, &c. to levy the tax, &c.

The Church-wardens and Overseers of the Poor, by Warrant from any two Justices of Peace, (*Quor.* 1.) may levy the Tax by Distress and Sale of Goods, where any Person refuses Payment of the Sum he is assessed. And if there be no Distress, whereby the same may be levied, he shall be committed to the common County Gaol, there to remain till Payment.

In Case a Parish is not able to maintain its own Poor, two Justices may tax any other Parish within the Hundred, towards their Relief: And if the Hundred be not of Ability to relieve their Parishes, the Justices in their Sessions may tax any other Parish or Parishes within the County.

Any grieved may appeal to Sessions.

If any Person or Persons find themselves aggrieved with any Rate or Tax, the Justices in their general Quarter-Sessions are to take such Order as they shall think fit.

The Overseers of the Poor are to make the Rate which is usually approved by the Inhabitants, and to be allowed by the Justices.

### A Rate and Assessment for the Poor.

Berks. ff. **A** Rate and Assessment made this Day of &c. on the Inhabitants of the Parish of, &c. in the County aforesaid, for and towards the necessary Relief of the Poor of the said Parish, for the Year ensuing, commencing, &c.

|                             | l. | s. | d.    |
|-----------------------------|----|----|-------|
| A. B. for his Messuage, &c. | —  | 00 | 10 00 |
| C. D. for one Tenement, &c. | —  | 00 | 08 00 |
| E. F. for one Cottage, &c.  | —  | 00 | 07 06 |

G. H. } Church-wardens.  
J. K. }

L. M. } Overseers.  
N. O. }

We whose Names are hereto subscribed, being Inhabitants of the said Parish of, &c. have perused this Assessment, and do hereby declare our Approbation thereof, and the same is an equal Rate, according to the best of our Judgments.

T. M. Parishoners.  
C. N. &c.

The Rate and Assessment above, is allowed by us this Day, &c.

J. S. } Justices.  
R. K. }

If the Overseers make an unequal Rate, they may be indicted and fined for it. 1 Keb. 173. Overseers fin'd for making an unequal Rate.

They may not tax particular Persons, and not the whole Parish: But it has been adjudged that the Justices may tax particular Persons, and need not assess the whole Parish, which is to contribute to the Poor of another Parish. 2 Bulst. 352.

A Parish in Reputation may make Rates for their Poor, and distrain for Non-payment of them. And the Inhabitants of a Village which hath parochial Rights, and is a Parish in Reputation, shall not be taxed to the Poor of the Rectory: But the making of Rates in a Village, which hath no parochial Rights, will not exempt the Inhabitants from paying to the Poor of the Rectory. Cro. Car. 92. Roll. Rep. 160. 4 Mod. 157.

The Father, Grandfather, Mother and Grandmother, and also the Children of poor old impotent Persons (being of Ability) shall at their own Charges, and without any Taxation, Rate, Relief, or Assistance from the Parish, maintain and relieve such poor Persons in such Manner, and according to that Rate, as by Justices of Peace in their General Quarter-Sessions, shall be assessed, upon Pain of forfeiting 20 s. per Month. Stat. 43 El. c. 2. Grandfather, &c. if able shall relieve poor Relations.

A Husband marrying a Grandmother, having an Estate with her sufficient, shall be chargeable to the Relief and Maintenance of a poor Grandchild, during the Life of the Grandmother; but where a Grandmother is unable to relieve her Grandchild, and marries with a Man of Ability, he is not to be charged. Also if the Husband after Marriage becomes to be of Ability, the Grandmother at the Time of Marriage

Marriage having nothing, he shall not be bound to keep the Child. 2 *Bulst.* 345. 347.

A Father was ordered to allow Maintenance to the Son's Wife, he being beyond Sea. And a Father-in-Law has been adjudged within the Meaning of the Act. 43 *Eliz. Style* 283.

Clergy must  
pay Poores  
Rate.

All Persons, the Clergy themselves not excepted, must contribute to the Relief of the Poor. 2 *Keb.* 251. and all Things that bring in annual Profit, may be taxed, and Tolls are taxable. 3 *Keb.* 594.

May be laid  
either on Land  
or Goods.

The Tax is to be in Proportion to the yearly Value, and not the Quantity of Land, and as it arises, by Reason of the Land in the Parish, the Farmer or Renter is to pay it, and not the Landlord for his Rent. It may be laid either upon Lands or Goods, but a Farmer being assessed for the Land he occupieth, shall not be assessed for his Stock on that Land necessary for Manure, nor the Profits for which he has been already taxed; but for other Stock he is taxable.

In the Place  
where they  
are, &c.

And a Clothier, &c. having an Estate in Lands, and a great Stock of Wares, may be taxed for both.

Goods of 100*l.* Value should be rated at 5*l.* per Ann. or as Lands are, and Persons must be charged only in that Place where the Goods are at the Time of Assessment, as in Case of Lands. And if a Man hath no Goods where assessed, and is distrained, he may have an Action of Trespas, &c.

Overseers of a Parish in Reputation, though it be really no Parish, may make Rates for their Poor, and distrain for the Non-payment of them. *Cro. Car.* 92. *Hilton* vers. *Pawle*. And the Inhabitants of a Village, having a Chapel and parochial Rights, shall not be taxed to the Poor of the Rectory. *Roll. Rep.* 160. *contra*, if no parochial Rights.

Where the  
Tax shall  
cease.

When the Cause of Taxation made either by two Justices or Quarter-Sessions, of other Parishes, for Inability of those wherein the Poor are resident, ceases, the Tax shall cease also, and the Contribution lessen as there shall be less Occasion. *Mod.* 437. *Litl.* 73.

The Inhabitants of *Limehouse*, and Overseers, &c. were convicted for not making an equal Rate for the Poor, and their Fine was set. It was moved that they might be bailed, on Error brought, but the Court refused, and would not supersede the Execution. 2 *Keb.* 175. *Sid.* 320.

K. B. will  
grant a Man-  
damus to force  
Justices to sign  
Poores Rates.

The Court of K. B. upon Motion will grant a *Man-*  
*damus*, and compel the Justices to sign the Poores Rates,



Rates, unless they shew Cause to the contrary. The Case of the Inhabitants of *Peterborough*. *Mich.* 20. *Car.* 2. 1 *Sid.* 377.

The Court refused to confirm an Order of Sessions made to charge another Parish to contribute to the Poor of *Hinckly*, because the two next Justices, who by the Stat. 43 *Eliz.* are made Judges within the Hundred, had not made any Order, and the Sessions cannot meddle originally, because then the Appeal is taken away; and therefore the next Justices ought at least to certify there is no Parish sufficient in the Hundred. So wherever any Statute appoints the two next Justices, none can go to the Sessions originally; *contra* where it appoints any two Justices, there the Sessions may originally determine it; & *per Cur'* the Order was quash'd. 1 *Keb.* 685.

Where they may apply to the Sessions originally, and where not.

The Justices may quash the whole Rate where it is unequal, and may make a new one themselves, or order the Inhabitants to make a new one. The Case of the Parish of *Shoreditch*. *Mich.* 10 *W.* 3. *B. R.* *Salk.* 524.

Justices may quash the whole Rate, and make a new Rate.

An Overseer is not bound to lay out Money till he receives it; but if he does, he may make a new Rate for the Relief of the Poor, and out of that he may retain to pay himself. *Et per Cur'*, the Churchwardens and Overseers may make a Rate themselves. *Tanny's Case.* *Hil.* 2. *A. B. R.* *Salk.* 531.

A Person cannot be rated for a whole Quarter Persons ought to the Poors Rates; for by the Statute they are to be assessed Monthly. *Tracy ver. Talbot*, *Trin.* 3. *A.* *Salk.* 532.

Persons ought not to be rated quarterly, but monthly.

Note by *Kelynge*, whereas the Stat. 14 *Car.* 2. c. 12. is that in great Parishes there should be distinct Overseers in the several Townships in the County of *Cumberland*, and other Counties therein named; yet this Statute does not extend to other Counties not named in the said Stat. 2 *Keb.* 469. *Rex ver. Quarles & Thurfby.* 2 *Lev.* 142. 3 *Keb.* 539. *Skellington ver. Warton.*

### Removals.

Statute 13 & 14 *Car.* 2. c. 12. Enacts, that where any poor Person shall remove from one Parish to another, and in the Parish to which he removes shall Rent a Tenement under 10*l.* per *Ann.* the Churchwardens

Where Churchwardens, &c. may remove new Comers into a Parish.

wardens and Overseers of the Poor within 40 Days, by Warrant from two Justices, on Complaint made by such Church-wardens, &c. may remove him to the place where he was settled for 40 Days, unless he give Security to discharge the Parish.

From what  
Time the 40  
Days are to be  
accounted.

And by Stat. 3 & 4 W. & M. the 40 Days Continuance, is to be accounted from the Time of publishing Notice in Writing, of the House of Abode, and Number of the Person's Family. And this Notice is to be read in the Church by the Overseer, &c. the next Lord's Day after Divine Service, on Pain of forfeiting 40s. leviable by Distress, or Commitment for a Month.

Stat. 13 & 14  
Car. 2. made  
against clari-  
destine Remo-  
vals, not pub-  
lick Ones.

An Order of Sessions was made for removing a poor Man and his Family, as being a settled Inhabitant in another Place, by remaining above 40 Days after taking an House, and being rated to the Poor there. Agreed by the Court that in respect to Settlement within the Stat. 13 & 14 Car. 2. coming into the Parish publickly, taking a House, and being rated to the Poor on the Parish-Book, is sufficient Notice, without giving any Notice in Writing, to the Church-wardens. For the Statute is made against private and clandestine Removals, and not publick Ones, which the Parish can take Notice of it self. *Shew. Rep. 12.*

Bastard Children gaining a Settlement by their Birth, by Construction of the Stat. 18 Eliz. it has been usual with the Justices of Peace, (for preventing any Charge to the Parish) if a single Woman with Child come into a Parish, by Warrant to remove her to the Place of her last legal Settlement.

No Person  
shall gain a  
Settlement by  
any Purchase  
under 30 l.

But let a Man be settled where he will, he cannot, though likely to become chargeable to the Parish he goes to reside in, be removed from thence, if he have any Estate. *5 Mod. Rep. 416.* But by 9 Geo. c. No Person shall be adjudged to gain a Settlement in a Parish by Virtue of any Purchase therein, for which the Consideration doth not amount *bona fide* to 30 l. for any longer Time than such Person shall inhabit in the Estate purchased, and shall then be liable to Removal to the Place where last legally settled.

If Parish Offi-  
cers refuse to  
receive a Man  
removed, they  
forfeit 5 l.

If a Man be removed by Warrant of two Justices from one Parish to another, and the Church-wardens or Overseers refuse to receive him, they shall forfeit 5 l. to be levied by Distress and Sale of Goods, for the

Use

Use of the Poor of the Parish from whence such Person shall be removed ; and for Want of Distress, be committed for 40 Days. 3 & 4 W. & M. c. 11. But the Party grieved may appeal to the Quarter-Sessions of the County from whence the Party was removed.

A Woman big with Child was by an Order of two Justices removed from one Parish to another, and there she was brought to Bed. The Parish to which she was removed appealed at the next Sessions, and the Order was reversed. Afterwards an Order was obtained from two Justices, to send the Child back : And that Parish appealed, but the Order was confirmed. At last it was removed into B. R. and C. J. Holt gave his Opinion, that the Birth at the last Parish did not settle the Child there, by Reason the Mother was there under illegal Order, which Order being reversed, the Matter is no more than that they procured the Woman to go thither. *Trin. 3 Ann. Corbarn ver. Westbury.*

An illegal Order no good Removal.

If a Woman near her Time, be by Practice clandestinely removed from one Parish to another, and there delivered, she and her Child are to be removed to the Parish from whence she was so clandestinely conveyed. 2 Bulst. 381. *Villa de Tewksbury ver. Villam de Twining.* Per Holt, Chief Justice : The most regular Way for Justices to proceed upon 14 Car. 2. in removing a poor Person is to make a Record of the Complaint and Adjudication, and upon that to make a Warrant under their Hands and Seals to the Church-wardens, to convey the Persons to the Parish to which they ought to be sent, and deliver in the Record *per proprias manus* into Court, the next Sessions, to be kept there among the Records, to charge the Parish ; and that Record may be well removed by a general Certification to the Justices of Peace. *Hil. 4 Ann. B. R. Salk. 406.*

No more a Removal by Practice.

The regular Way for Justices to proceed on 13 & 14 Car. 2.

I shall here present the Reader with such Rules as I meet with in our Books concerning the Drawing of Orders for the Removal of poor Persons :

Rules for drawing Orders.

1. The Order must say last legally settled ; for by Law the Place that the Poor were last legally settled at, is the Place which is to provide for them *Trin. 5 Ann. B. R.* It is not sufficient to say the Order was made on due Notice without adding (on Complaint of the Church-wardens and Overseers of the Poor

Order must say where last legally settled.

Not sufficient to say made on due Notice.



Poor of the Parish) and though on a *Certiorari*, it was returned to be so, yet the Order is the Record, and the Return cannot make a void Order good. *Mick. 9 Ann. inter Parochi de Northbovy & Shugford*; & *Pasch. 6 Ann. Regina ver. Parochias de Langley & Goreing. 5 Mod. 149. Rex ver. Inhabitants of Wooton Rivers.*

Must say one of the Justices is of the Quorum.

If by the Order it don't appear that one of the Justices is of the *Quorum*, the Order is naught; for two Justices, unless one is of the *Quorum*, have no Authority to remove a poor Man. *5 Mod. 321. the Inhabitants of Chillingfold vers. the Inhabitants of Penbury.*

Must contain an Adjudication of the last legal Settlement.

The Order must contain an Adjudication of the last legal Settlement of the Party. *Pasch. 6 Ann. Regina ver. Parochiam de Langley & Goreing.*

An Order for the keeping a poor Woman, though it was alledged that it was uncertain in what Parish she lived, nor said that she was impotent, yet refused to be quash'd. *2 Keb. 37. Kilbeck's Case.*

It must be because the Party is likely to become chargeable.

An Order for the removing one because he might become chargeable to the Parish, is ill, because it denotes a bare Possibility, and no Probability. It ought to be because the Party is likely to become chargeable to the Parish. *Farresly 34. Mod. Cases 163. Regina ver. Inhabitants of Newnham.*

Must say the Justices were Justices at the Time of the making.

If the Order don't set forth the Makers to be Justices at the Time of the Making, though the Order be confirmed on Appeal, yet it is naught; because tho' they might be Justices at the Time mentioned in the Order of Confirmation, they might not be so at the Time the first Order was made. *5 Mod. 322. Parish of Walton vers. Parish of Chesterfield.*

Must say the Information is on Oath.

An Order for the removing of a poor Person to a Place which the Order rehearsets to be, as the Justices are informed, the Place of his last Settlement, is not good, unless it says the Information is on Oath. But if on Appeal the Order is confirmed, it is good. *5 Mod. 325. Parish of Trowbridge ver. Parish of ———.*

An Exception was taken to an Order for settling a poor Man, that he did not rent an House of 10 l. per Ann. Ch. Justice: That most of the Orders since 13 Car. 2. have been so; and though it might have been better if it had been added, that he was likely to become chargeable to the Parish; yet since the Precedents have been so, we will not alter it.

But

But then another Exception was, that it is not said in the Order there was a Complaint made by the Church-wardens: And that was fatal; for the Justices of Peace cannot remove a Man without it. And tho' it is said in this Order that Complaint was made, yet since it is not said by the Inhabitants or Church-wardens of the Parish, it is ill. Let the Order be quash'd. *Mich. 7 W. 3. in B. R. Rex vers. Inbitan. de Marlborough.*

Where an Order is made for the Settlement of a poor Person, and an Appeal thereupon to the Sessions, the Sessions may affirm or quash that Order, but they cannot send such poor Person to a third Parish, who are no Parties to the Appeal. *Inter Inbitan. Ofwel & Woking. Pasch. 8 W. 3. B. R. Salk. 472. 475.*

An Order reciting, Whereas we are credibly informed of the Place of his last legal Settlement, &c. is naught, for the Place of his Settlement ought to be positively averred, and adjudged by the Justices. *Salk. 473. 478. 479.*

The Removal of a poor Person may be by two Justices of the County, though not of the same Division. *Salk. 480.* but one of them must be of the *Quorum*, and so recited to be, or the Order is naught. *ibid. & 475.* And they must appear to be Justices of the County in the Order, or it is ill. *Salk. 474.*

An Order made by two Justices, being quash'd by the Sessions, the Sessions Order was quash'd in *B. R.* because it did not appear the Cause came before them by Way of Appeal, without which they have no Jurisdiction. *Salk. 479.*

A Settlement by Order of Sessions upon an Appeal, binds all Parties; and if a poor Family, after such Order return to the Parish from whence they were removed, the Sessions must see their Order obeyed. But if such poor Family go into another Parish, not concerned in the Appeal, then two Justices of Peace ought by an original Order to remove them to the Parish where they were settled by the Sessions Order. *Inter Inbitan. Downhead and Broadbalk. Hill. 9. W. 3. Salk. 481. 489.*

Where two Justices of one County send a poor Person to a Parish in another County, two Justices of the County whither such Person is sent, cannot make an Order to remove him back again or to send him to any other Place. And the Town to which such Person was sent, has no other Remedy

Must say on Complaint of Church-wardens.

Sessions on Appeal may quash or affirm the Order, but can't send to a third Parish.

The Place of his last Settlement ought to be positively affirmed in the Order.

Sessions have no Jurisdiction but by Way of Appeal.

Sessions must see their Order obeyed.

Where two Justices send a poor Man into another County, Parish griev'd must appeal to Sessions of the first County.

Where a Man  
marries a Wi-  
dow with  
Child, how  
they shall be  
settled.

Sessions may  
make a new  
Rate.

Examination  
of Poor must  
be said to be  
by both Justices.  
Order made  
by Corporati-  
on Justices;  
Appeal must  
be to the Ses-  
sions of the  
County.

dy than by Appeal to the Sessions of that Coun-  
ty from whence the Party was sent. *Inter Inbitan.*  
*King's Norton and Swolnbill. Hill. 9 W. 3. Salk. 481. 488.*

If a poor Man settled at *A.* marries a poor Woman  
who is settled at *B.* and has Children by a former  
Husband, the Wife shall be removed with him to *A.*  
but the Children, such of them as are above Seven  
Years old, shall not be removed, and those under Se-  
ven shall be removed only for Nurture; so that they  
shall be kept at the Charge of the Parish from whence  
they are removed. *Mich. 10. W. 3. B. R. Salk. 482.*

A general Order to remove a Man and his Family,  
is not good. *Salk. 482. 485. 488.*

Where the first Order is naught, no subsequent Or-  
der on an Appeal can make it good. *Mich. 10. W. 3.*  
*B. R. Anonymus. The same Resolution, Trin. 2 Ann.*  
*inter Selen & Ripley. Salk. 482.*

Where a Person appeals against a Poors Rate, the  
Sessions may quash the whole Rate and make a new  
one themselves, or order the Church-wardens, &c.  
to make a new one. *Salk. 483.*

Whether the Justices have Power to send a poor  
Person to a Place that is extraparochial: There are  
Resolutions both ways. *Salk. 486. 487.*

A Determination on an Appeal to the Sessions is on-  
ly binding between the Parties to the Appeal. *Inter*  
*Bendenham & Kingston-Bowsey. Hill. 11 W. 3. B. R.*  
*Salk. 486.*

An Order drawn up to have the Opinion of the  
Court, concluding, and if the Court should be of  
Opinion, &c. was held to be right. *Ibid.*

The Examination of the Person must be recited in  
the Order to be by both Justices, (because the Adjudica-  
tion ought to be by both) or the Order is naught. *Inter*  
*Ware & Hamstead. 12 W. 3. B. R. Salk. 488.*

Where an Order is made by two Justices of a Cor-  
poration, the Appeal must be made to the Sessions  
of the County, and not of the Corporation. *Inter Wat-*  
*ford & Wendover. Pasch. 13 W. 3. B. R. Salk. 490.*

It ought to appear in the Order that the Person re-  
moved is a Person removable. If it be recited, that  
whereas Complaint hath been made to us that *A.* is  
likely to become chargeable, it is naught; but if it  
be said, whereas it appears to us upon Complaint,  
&c. that *A.* is likely to become chargeable, it is well  
enough. *Salk. 491.*

Where



Where an Order is confirmed, or not appealed from, it is conclusive to all the World ; but where an Order is reversed by the Sessions, such Reversal only determines that the Place the Party was sent to was not the Place of his last legal Settlement. *Inter Swancomb & Shenfield. Pasch. 1 Ann. B. R. Salk. 492.*

An Order for Removal of a poor Person, not reciting that it was made upon Complaint of the Church-wardens, &c. is naught. *Inter Weston Rivers & Church-wardens. St. Peters in Marlborough. Salk. 492.*

Where the Sessions make an Order, and in the same Sessions vacate it by a subsequent Order, it is held to be well enough : For the Sessions is all deemed but one Day, and the Justices may alter their Judgments at any Time while it continues. *Inter St. Andrews Holborn & St. Clement Danes. Mich. 3 Ann. B. R. Salk. 494. 606.*

A Motion was made to quash an Order of Sessions, because the Justices had adjourned the Appeal from one Sessions to another, and so the Determination upon the Appeal was not at the next Quarter-Sessions : *Per Cur.* The Appeal must be lodg'd at the next Quarter-Sessions ; but when it is lodg'd, the Justices may adjourn it. The Case of *Kings Langley. Trin. 1 W. 3. B. R. Salk. 605.*

The Sessions need not set forth the Reason of their Judgment. *Salk. 607.*

An unmarried Person hired for a Year, married before the Year was expired, it was held that he could not be removed ; and that upon performing his Service and staying the Year out, he would gain a Settlement. *Inter Farringdon & Witty. Pasch. 1 Ann. B. R. Salk. 527.*

An Order reciting a Complaint that a Certificate Man is become chargeable, is not good, unless he is adjudged by the Justices (in the Order) to be actually chargeable. *Salk. 530.*

Where a Parish gave a Certificate to a poor Man, acknowledging him an Inhabitant, though in Truth he had gain'd no legal Settlement there ; whereupon he went into another Parish to get his living, who sent him back to the Parish, who gave him the Certificate, and thereupon a third Place was discovered where he was truly last legally settled. And it was resolved, that altho' the first Parish had given him such a Certificate, yet this should only conclude them against the Town to which it was given, and not against

Where an Order is conclusive to all the World.

Must be on the Complaint of Church-wardens.

Sessions may let aside their own Order made the same Sessions.

May adjourn Appeal to next Sessions.

Marrying in Service does not hinder his Settlement.

Parish gave a Certificate by Mistake, bound by it only to the Parish they gave it to.

gainst the last Parish; for the giving a Certificate does not create a Settlement where there was none before, tho' it is a strong Evidence of a Settlement. *Inter All-Saints and St. Giles's in Northampton. 2 Ann. B. R. Salkeld 530. Vide the Case of Honiton and St. Mary Axe. Mich. 9 Ann. B. R. contra Salkeld 535.*

Hiring a House of 3 l. per Ann. tho' a Freeman, gains no Settlement.

One, who hired a House of 3 l. per Ann. in a Corporation, was made a Freeman, and voted as such at the Election of Bailiffs there, was held to be no Inhabitant notwithstanding; for at this Day nothing shall create a Settlement that does not come within the Words of the Statute of 3 & 4 W. & M. c. 11. *Dominus Rex vers. Inhabitan. de Buckingham. Pasch. 3 Ann. B. R. Salk. 534.*

Servant must be hired for a Year to gain a Settlement.

One was hired as a Servant to live Half a Year, and afterwards was hired by the same Person to live with him for another Half Year; and thereupon served a whole Year in one continued Service; but by several Hirings. *Per Cur.* It ought to be one entire Contract, and one entire Service, and the one is required by the Statute as well as the other; and the Hiring must be a Retainer for a Year, according to the Stat. of *Eliz.* to create a Settlement. *Inter Dunsford & Ridgwick. Mich. 9. Ann. B. R. Salkeld 535.*

Renting a Water-Mill of 10 l. per Ann. makes a Settlement.

Resolved by the whole Court, that the Renting of a Water-Mill of 10 l. per Ann. gains a Settlement. *Inter Evelin & Rentcomb. Hill. 10 Ann. B. R. Salkeld 586.*

An

An Order to remove one to the Place of his last legal Settlement, who has been warned out, and has refused or neglected so to do.

To the Church-Wardens and Overseers of the Poor of, &c.

Effex. II. **W** Hereas Complaint hath been made unto us two of his Majesty's Justices of Peace for the said County, whereof one is of the Quorum, by the Church-wardens (or Overseers of the Poor) of the Parish of St. M. That A. B. in May last, being legally settled as a Native (Householder, Sojourner, Apprentice or Servant, as the Case is) in the Parish of H. in the County aforesaid, is now come into the said Parish of St. M. endeavouring to settle himself as an Inhabitant thereof, and doth not rent the Value of 10l per Ann. there, nor hath within 40 Days last past given or delivered either to the Church-wardens or Overseers of the Poor of the said Parish, any Notice in Writing of the House of his Abode, and the Number of his Family, but is likely to become chargeable to the said Parish, contrary to the Form of the Statutes in that Case made and provided. [\* And being required, by a Warrant under the Hands and Seals of two of his Majesty's Justices of the Peace for the said County, to depart out of and from the said Parish of St. M. or otherwise to give sufficient Security not to become chargeable to the said Parish, or shew good Cause to the contrary, hath refused or neglected so to do.] This is when he had been warn'd out before. These are therefore (in his Majesty's Name) to charge and command you, that you, some or one of you, do forthwith remove and convey the said A. B. from the said Parish of St. M. unto the said Parish of H. which, on Examination, we do adjudge to be the Place of his last legal Settlement, and to deliver him to the Church-wardens and Overseers of the Poor there, or to some or one of them (together with this Precept, or a true Copy thereof) who are hereby required to receive and provide for him as a settled Inhabitant there, until they shall otherwise be discharged thereof, according to the Law. Hereof fail not at your Perils. Given under our Hands and Seals, the, &c.



## Settlements.

Settlements  
gained three  
Ways.

Settlements are gained three Ways: First, by Inheritance, as when a Child claims a Settlement in a Parish, because his Father was there settled. Secondly, by Birth; and Thirdly, by Commorancy.

By Father's  
Settlement.

As to the first of these, if the Father has a legal Settlement, the Child is settled where the Father is: And if the Father has no legal Settlement, then the Child regularly gains a Settlement in the Parish where born. 2 *Bulst.* 351.

By Birth.

But this Settlement by Birth may be defeated several Ways. 1. If the Parent is removed by an illegal Order, and from the Order an Appeal is duly made, pending which the Child is born, and then the Order is quashed, the Child is to be sent back with the Mother. 2. By Practice, as if a Woman near her Time is clandestinely sent to another Parish, and there delivered. 3. If a Woman with Child be sent to the House of Correction, and is there delivered, the Child shall not gain a Settlement by its Birth in the Parish where the House of Correction is, but in the Parish where the Mother dwelt when sent to the House of Correction, as the Place where she had probably been otherwise delivered. *Salk.* 121. 2 *Bulstrode* 358, 381.

Persons whose  
Interest is de-  
termined can't  
be unsettled.

And Persons whose Interest in Houses or Lands is determined, cannot be put out of the Town where they were legally settled; nor can they be sent to the Place of their Birth or last Habitation, but, according as they are able or impotent, shall be relieved or set to work in the Town where so settled; but if they wander and beg, then they may be taken up and sent to the Place of their Birth. *Dalt.* 158.

Settlement by  
Commorancy.

Settlement by Commorancy is where a Person continues in some other Place than where he was before legally settled; and such Continuation makes a Settlement.

Formerly every one who was settled as a Native, Householder, Apprentice or Servant, for a Month, without a just Complaint made to remove them, were held to be lawfully settled. But now this Month has been alter'd to forty Days, where a Person shall come into a Parish and rent a Tenement under 10 *l. per Ann.* and

and several other Alterations are made by the Stat.  
3 & 4 W. & M.

By which Stat. the Renting 10 l. a Year, or a Man's Renting 10 l. executing on his own Account any publick annual Office or Charge for one Year, or his paying any Share of Taxes, Rates or Assessments of the Parish, (but Scavenger's Rates and to the Highways are since excepted by Stat. 9 Geo.) or a Person's Serving an Apprenticeship, and inhabiting in a Town; or an unmarried Person, not having a Child, being hired for a Year, and continuing in the Service for a Year; any of these will make a legal Settlement.

Where a Man hath any Estate, he is adjudged settled: But by 9 Geo. no Person shall be adjudged to gain a Settlement in a Parish by Virtue of any Purchase therein, for which the Consideration doth not amount, *bona fide*, to 30 l. for any longer Time than such Person shall inhabit in the Estate purchased, and shall then be liable to be removed to the Place where he was last legally settled.

The Renting of a Water-Mill of 10 l. *per Ann.* gains a Settlement as above. *Salk. 536.* But no Settlement can be legal in any Parish, when the Residence of the Party is obscure and uncertain; as coming now and then, and lying in Barns, Out-houses, &c. And no Settlement can be where the Party is under Disturbance from the Parish Officers. 3 & 4 W. & M.

The Law unsettles none who are lawfully settled, nor permits it to be done by Compulsion or Practice. If one be retained in Service only, or had but hired a House, the Law does but unsettle such Person. If any shall, by indirect Means, hinder a poor Man from hiring a House, he may for such Disturbance be indicted. And it is finable to remove or put out any out of the Parish, who ought not to be put out; and the Persons so removed may be sent back. *Dalt. 98.*

If a Man born in A. be settled in B. and he is there thrust and kept out of his House, so that he is forc'd to wander and beg in D. and thence he is sent to A. he is to be settled in B. for this was by Compulsion. And if a Parish will have a Man born in A. but settled with them, to go and wander and beg in B. that he may be sent to A. and he doth so, this being by Practice, he must be sent back to the Parish from whence he came.

No Purchase under 30 l. makes a Settlement.

Renting a Mill of 10 l. *per Ann.* makes a Settlement.

No Settlement where the Party is disturb'd by Parish Officers.

The Law unsettles none who are duly settled, &c.

None to be unsettled by Compulsion.

Wife to be sent  
to the Hus-  
band, and  
Children to  
their Parents.

Where Wife  
to be sent to  
her Husband.

Till eight Years  
old Children  
are Nurse-  
Children.

General Order  
not good.

Sickness does  
not hinder a  
Servant's Set-  
tlement.

Regularly a Wife is to be sent to and settled with the Husband, tho' he be but an Inmate or Servant; and generally all Children are to be sent to and settled with the Parents. But if a Man hires an House in *A.* and being there with his Wife and Children, he shall afterwards bind himself a Servant to one in *B.* in this Case his Wife and Children are not to be sent to *B.* but are to remain still at *A.* where they were once settled; but 'tis otherwise if the Husband had hired an House in *B.* *Dalt.* 166.

If the Husband hath an House in *A.* and live there by Night, but is under Covenant to serve a Master in *B.* and he is there all the Day; yet the Wife is to continue in *A.* but if he take a House in *B.* she must be settled with him.

Till eight Years of Age Children are counted Nurse-Children, yet afterwards they must have Maintenance from the Parishes where they themselves were settled. And if an Order is made on the Parish where the Parents were settled, it must appear upon the Face thereof that the Child had gained no new Settlement, *Salk.* 470.

If a poor Man settled at *A.* marries a poor Woman who is settled at *B.* and has Children by a former Husband, the Wife shall be removed with him to *A.* but the Children above seven Years old shall not be removed, and those under seven shall be removed only for Nurture; so that they shall be kept at the Charge of the Parish from whence they were removed. *Salk.* 482.

An Order for the Removal of a poor Person was quash'd, because there was no Judgment of the Justices concerning the last legal Settlement, but only the Oath of a Woman. *Salk.* 485.

A general Order to remove a Man and his Family is not good. *Salk.* 479, 482.

An unmarried Person hired for a Year, married before the Year was expired; it was held that he could not be removed, and that upon performing his Service at the End of the Year he would gain a Settlement. *Salk.* 527.

A Man hired a Servant for a Year, but she falling sick, her Master turn'd her out of his Service. The Servant, in her Passage to the Place of her Nativity, begg'd for Relief, and she was sent as a Vagrant to the Place where she was born. Whereupon she was sent back by that Parish to the Place where she was a hi-  
red



red Servant; but by Order of Sessions she was settled at the Place of her Birth. This was removed by *Certiorari*, and the Court determined the Settlement to be at the Place where she was an hired Servant, and not where she was born. *Style 168.*

Justices at Sessions are the proper Judges, whether 'tis fit to oblige any Person to take an Apprentice or not. But a Covenant between the Master and a third Person, the Servant not being Party, makes no Apprenticeship; such Person has been adjudg'd no more than a Boarder for his Education, which is no Service to make a Settlement. *Salk. 479, 491.*

If the Dispute of Settlement of a poor Child be between two Parishes, the Court of *B. R.* usually refers it to the Judges of Assize; but if between two Counties, this Court will determine it. *3 Keeble 644.*

The Place which the Poor were last legally settled at, is the Place which by Law is to provide for them. *Trin. 5 Ann. B. R.*

If a Father has a legal Settlement in a Parish, the Child is settled where the Father is; but if the Father has no legal Settlement, then the Child gains a Settlement in the Parish where 'tis born. *2 Bulst. 351.*

If the Parents of poor Children die *in transitu*, the Children are to be provided for by the Parish where they were born; for the Place of Birth is a certain Settlement, and Parents wandering with them afterwards will not alter the Case. *Bulst. Rep. 351.*

All Children are to be sent to and settled with the Parents, and Children above seven Years of Age found begging and vagrant with the Parents, are to be sent to *Bridewell* with them, if under, to the Place where they last passed thro' without Correction.

A Man having a Wife and Children, takes a House in the Parish of *B.* for a Year, and in that Year is wrongfully turn'd out of Possession; whereupon he takes a House in another Parish, and is there turn'd out; and then gets into a Barn in another Parish, and there his Wife is deliver'd of another Child: In this Case they are all to be sent to the Parish of *B.* out of which they were first illegally forced.

And if a Maid-Servant, hired for a Year, be turn'd away on Account of Sickness before the Year expired, she nevertheless obtains a Settlement there. *Style 168.*

Disbanded Soldiers may settle in any Town of the County where born, and set up any Trade without serving an Apprenticeship, &c. by 10 & 11 W. 3.

If Mother hang'd for Felony, Child to be sent to the Place of its Birth.

If a travelling Woman, having a small Child suckling on her, is apprehended for Felony, and is tried and condemned and executed, this Child is to be sent to the Place of its Birth, if that can be known, if not, to the Place where the Mother was taken; for the Child being no Malefactor, ought not to be sent to Gaol. 2 *Bull.* 351. 3 C. 1. *per Hyde* Chief Justice at Cambridge Assizes. *Dalt.* 958.

Apprentice settled with the Matter to whom he is bound by Indenture.

An Apprentice, tho' bound to one in one Parish, and by his Master assign'd to one in another, if the Indenture is not cancell'd, is settled in the Parish where the first Master lived; 3 *Anna.* the Case of the Parish of *Thursley* in *Survey*. But then it must be by Indenture.

Where Order is conclusive.

If the Order of the two Justices is, on the Merits, affirm'd or quash'd, 'tis conclusive betwixt the Parties. *Pas. 1 Anna.* *Inter Parochias de Bishop Walt.* & *Per in Com. Essex.*

If the Places concerned don't appeal from the Order of the two Justices, 'tis conclusive to all Places, unless an After-Settlement can be found. *Mich. 5. Ann.* the Case of *Great Sanke Barton* and *Clifton* Parishes.

No Appeal lies from the Sessions to the Judge of Assize. 2 *Bull.* 355.

When one is legally settled, not to be unsettled by Practice, &c.

N. B. It is indictable and finable to remove or put any out of the Parish who ought not to be put out, and the Persons so removed may be sent back: For the Law unsettles none who are lawfully settled, nor permits it to be done by Compulsion, or by Practice. *Dalt.* 98. Nor no Settlement can be legal that is brought about by Composition, Practice or Agreement, or by Compulsion. Nor no Settlement can be where the Party is under Disturbance by the Officers. Wherever a Woman with Child is to be settled in a Parish, if she die, her Child shall be charged on the same Parish.

Being rated, but not paying Parish Duties, makes no Settlement.

Being rated to Parish Duties, but not paying them, this will not make a Settlement. (For the Statute says shall execute any Office, or Charge, or pay his Share.) Inhabitation and Publication of Notice, if no Disturbance be for forty Days after the Publication, will make a Settlement, by Stat 3 & 4 W. & M.

cap. 11.

J. S. came from the Parish of K. with a Certificate, being legally settled there, and went to the Parish of M. and because he was likely to be chargeable, they sent him back again to K. by an Order; but it was quash'd, because by Stat. 8 & 9. W. 3. c. 30. he is not removable who comes with a Certificate, unless he is actually chargeable; and the Sessions have no Jurisdiction but by Way of Appeal upon such an Order. 2 Salk. 436.

Not removable unless actually chargeable.

I shall now conclude this Title of the Poor with the most material Cases which have been adjudg'd on this Head.

Adjudg'd, that all Rates ought to be equal, as near as may be; therefore a standing Rate cannot be good, because Lands may be improved every Year; and therefore a Rate may be altered as Circumstances alter. 2 Salk. 526.

Cases about the Poor Rates must be equal.

Order made by two Justices, &c. to Overseers, to continue the weekly Payment of 2s. to R. G. and all the Arrears, till they find them an House, quash'd; because the Overseers have no Power to find him an House; that must be done by the Lord of the Manor, or by the Justices.

Overseers not to find Houses for Poor.

Three Justices took the Account of the Overseers of a Parish for the Year 1697. and adjudged by them that there was 69 l. 8 s. 10 d. due to the Parish, and they made an Order for the Payment thereof to the succeeding Overseers for the Year 1698. It was objected that the Justices had not Power to make such an Order, but only to grant Warrants to distrain on the last Overseers; but adjudg'd that it was a good Order, and it was confirm'd. 2 Salk. 485.

An Overseer accounted before two Justices, and his Account was allowed; the Parish appealed to the Sessions, and there his Account was disallowed, and he was ordered to pay so much to the new Overseers, which they adjudged to be in his Hands; which he not doing, they committed him: But this Order was quash'd, and the Person was discharged from the Commitment; because the Sessions should have ordered the Money to be levied by Distress in the same manner as the Justices should do; and upon Return of their Warrant, that no Distress was to be had, then to commit. 2 Salk. 533.

Sessions can't commit but where there is no Distress.



Overseers to  
account to Ju-  
stices, not to  
new Overseers.

Mandamus to the Justices, &c. on the Stat. 43 Eliz. to compel the old Overseers to account with the Successors, was quash'd; because by the Statute the Account is to be given to the two Justices, and not to the succeeding Overseers: Besides, two of the Persons named in the Writ, and who are to account, do not appear to be Overseers. 2 Salk. 525.

Mandamus to the Justices to appoint Overseers of the Poor in the Town of Rufford; they return, that Rufford is an extraparochial Place, and therefore they are not to provide for their Poor.

Places extra-  
parochial  
within Stat.  
43 Eliz.

But the Court was of Opinion, that Places extraparochial are within the Words of the Statute; for, by the general Words, the Justices have Power to name Overseers in all Parishes, which must extend to extraparochial Places as well as to Parishes in general; for where there is the same Inconvenience, it should be subject to the Control of the Justices; and most of the Forests in England are extraparochial, but they ought to maintain their Poor.

If Overseers  
won't account,  
may be indicted,

The Defendants were indicted at the Sessions, for that they being chose Overseers, &c. and having taken upon them the Office, & interq; eorum, did collect and receive several Sums for the Relief of the Poor, and did refuse to account within four Days after the End of their Year, &c. It was objected that this Indictment would not lie, because this was an Offence created by Act of Parliament; and the Punishment being directed by the Statute, viz. that the Offender shall be committed by two Justices, there to remain without Bail, that Remedy only must be pursued. 'Tis true, that is a proper Remedy to come at the Right, but the not accounting was a Contempt of the Law, for which an Indictment will lie. 5 Mod.

Court won't  
intend any  
Man to be an  
House-keeper,  
&c.

An Order was made by two Justices, that W. R. should take upon him the Office of Overseer of the Poor. It was objected that it was ill, because it did not appear that W. R. was an House-keeper, or an Inhabitant of that Parish; and the Court will not intend him to be one; and no Man can be Overseer for Part of a Parish. Mod. Cases 77.

Being a Parish  
Clerk makes  
a Settlement.

A poor Man was appointed to be a Parish Clerk, and he executed that Office for a Year: Adjudged this made a Settlement; and 'tis not material whether he came in by Appointment of the Parson, or by the Election of the Parishioners, for he is in for Life;

and

and this is Executing an annual Office and Charge within the Meaning of the Stat. 3 & 4 Wil. 3. Salk. 5.

One F. was settled at H. and afterwards went into the Parish of L. where he rented an House at 7 l. per Ann. and there he lived a Year and paid the Rates and Taxes due for that House, which were not charged on his Person, but on the House; Adjudged that this Payment of the Parish-Taxes made a Settlement. 2 Salk. 478.

A Servant was hired to live at R. for Half a Year, and after that was ended he was hired again by the same Master for another Half Year, and in the same Parish, and so continued in the same Service for a whole Year; but, upon two Contracts, adjudged no Settlement, for it ought to be a Service for a whole Year upon one Agreement, because the Statute requires that the Contract should be entire as well as the Service; for otherwise one who is hired and serves by the Quarter, or Month, or Week, or Day, if he continue in Service for a Year, will gain a Settlement, and thus the Statutes will be eluded. 2 Salk. 535.

W. R. was bound Apprentice for four Years to R. R. and served out his Time in the Parish of B. but his said Master R. R. was only a Lodger, and had no Settlement in the Parish of B. but adjudged W. R. had gained a Settlement in B. because his Settlement does not depend on his Master, but he hath gained a Settlement for himself within the Stat. 14 Car. 2. by dwelling in the Parish of B. forty Days; and the Case is the same of an hired Servant, tho' his Master had no Settlement in the Parish. 2 Salk. 533.

A poor Boy being bound Apprentice in L. his Master assigned him to W. R. who lived in N. in another Parish: Adjudged that he gained a Settlement where his second Master lived; for tho' an Apprentice is not assignable, yet the Assignment is not void, but shall amount to a Contract between the Masters, that the Apprentice shall serve the last Master; and 'tis good by Way of Covenant, tho' not to pass an Interest. 2 Trin. 9 Geo. Mod. Cases 190.

The Son was bound Apprentice to his Father, who was a poor Man, and afterwards he gave up the Indenture of Apprenticeship, and the Son hired himself into another Parish for a Year, and served out the whole Year; but the Indentures were not cancelled;

and

and thereupon an Order was made to send him to the Parish where he was an Apprentice, for he still continued so, because the Indentures were not cancelled.

No Way to reverse the Order of two Justices but by Appeal.

Order to remove a poor Man from B. to C. which was done, and then C. got an Order to remove him from thence to F. a third Parish; and these Orders being returned by *Certiorari*, it was adjudged that C. should have got the original Order repealed; for otherwise the Sending him by an Order to F. was a falsifying the original Order, which cannot be done but by Appeal; for the Order of two Justices is a Determination of the Right till 'tis repealed; therefore the Parish of C. should have appealed, and got the original Order discharged; and then the poor Man must be returned to B. from whence he was at first removed, and that Parish must send him to F. the third Parish. 2 Salk. 488.

Order confirmed on Appeal is conclusive and binding against all other Parishes; but if reversed, then only against the contending Parish.

Order by two Justices to remove a poor Man to S. which Order was confirmed upon an Appeal; then S. sends him by another Order to the Parish of *Swanfcomb*; but this last Order being removed by a *Certiorari*, was quash'd, because the first Order being confirmed upon an Appeal, is conclusive and binding against all other Parishes; and none can say that S. was not the last Place of his lawful Settlement. 'Tis true, if the first Order had been discharged upon the Appeal, or if there had been no Appeal, then the Matter is at large as to all Parishes, but only as to the contending Parishes, (i. e.) other than to the Parish to which the poor Man was sent; for he shall never be sent thither again, because, by the Reversal of the Order, the Sessions did determine that was not the last Place of his Settlement; so that an Order reversed upon an Appeal, is final only as to the contending Parishes; but an Order confirmed upon an Appeal, is conclusive to all Parishes. 2 Salk. 486, 492.

If first Order ill, no subsequent Order upon Appeal can make it good.

How Order is to be directed.

Adjudged, that if the first Order is ill, no subsequent Order upon an Appeal can make it good, and for that Reason in this Case both Orders were quashed. 2 Salk. 482.

An Order directed to the Church-wardens of a Parish to which a Poor Man is to be removed, is ill; for the Justices cannot command them to remove him to themselves; but the Order should be directed to the Church-wardens of the Parish from which he is to



to be removed; and also to the Parish Officers to whom removed. 3 Salk. 256.

If upon an Appeal the first Order of Settlement is quashed, and the Person ordered to be sent to the Parish from whence he was removed, this is ill, because the Sessions have Power only to quash or confirm the original Order; but because an Order may be good in Part and void in Part, therefore this Order was quash'd for that Part, by which the poor Person was to be removed, and was confirmed as to the other Part. Order may be good in part, and void in part.

An Order of Removal was confirmed upon an Appeal, and the next Sessions after there was an Order of a Review made, and the Sessions Order was quash'd, because obtained by Surprise; but adjudged that the Order of Review should be quash'd; because after the first Sessions, when the original Order was made, the Sessions have no farther Authority. Sessions have no Authority after first Sessions have made an Order, nor no Jurisdiction but upon an Appeal. 2 Salk. 477.

Order of Removal was quash'd at the Sessions, but because it did not appear that it came before them by Appeal, the Sessions Order was quashed, for they have not Jurisdiction but upon an Appeal.

Order was, Whereas Complaint hath been made unto us, &c. that C. D. with his Wife and Children, came from the Place of his Abode and last legal Settlement in B. to the Parish of A. quashed, because there was no Adjudication that B. was the last Place of his lawful Settlement. Order quash'd because no Adjudication. 2 Salk. 479.

An Order was quashed because it did not appear that one of the Justices was of the *Quorum*; for this being a Special Authority given to the Justices to remove a poor Person, it must be pursued. 2 Salk. 473. 481. So because it did not appear one of the Justices was of the *Quorum*, and that the Justices were Justices of that County.

An Order to remove a poor Person was quashed, because it did not appear that the two Justices were Justices of that County, but only residing in the County. 2 Salk. 474.

An Order was made by two Justices to remove a poor Man from the Parish of W. to the Parish of C. which Order was confirmed upon Appeal, but being removed into B. R. both Orders were quash'd, because it did not appear that the original Order was made by two Justices of Peace; it was only, Whereas Complaint hath been made unto us, not reciting their Authority, as Justices. 5 Mod. 327. So where it is not said to be made by two Justices.

Order made to remove two Men and their Families from W. to R. quash'd, because too general; for some of their Families might not be removable by general. Order quash'd for being too general.

Law; as for Instance: A Man settled in B. marries a poor Woman settled in W. who had Children by a former Husband, the Wife must be settled with the second Husband; but the Children of the first Husband above Seven Years old, are not removable: It is true, those under that Age must go with their Mother, but still it is but as Nurse-Children; for they must be kept at the Charge of the Parish where their Mother was settled before her second Marriage. 2 Salk. 485.

Quash'd for being too uncertain.

Order to remove a poor Man with his Wife and Children from W. to S. quash'd, because Wife and Children was too general and uncertain; for some of the Children might not be removable: Besides this Order was, ff. Whereas it appears upon Examination before us, or one of us, which is ill, because the Examination ought to be before two Justices. 2 Salk. 488.

If a Woman Servant be with Child during the Time of her Service, a Justice, upon Complaint of the Master, may discharge her, and the Parish where she serves must provide for her, as in other Cases of casual Impotency.

Where a Father has no Settlement, there Birth gives a Settlement to Children; But where the Father hath a Settlement, and that is known, they shall be sent to the last Settlement of the Father. Mich. 5 Ann.

If Parents dye in transitu, Children must be provided for by Parish where born.

If Parents of poor Children dye in transitu, the Children are to be provided for by the Parish where they were born; for the Place of Birth is a Settlement certain, and Parents wandering with them afterwards will not alter the Case. Bulst. 351.

Order quash'd for not setting forth Daughter, was impotent, &c.

An Order was made at the Sessions that a Man should maintain his Daughter, and allow her 20d. a Week for her Subsistence; the Order was quash'd, because it did not appear by the same, that she was unable to work, or that she was sick, aged, or impotent; and therefore not within the Stat. 13 W. 3. in B. R. James Mendoza's Case.

Sessions cannot transfer over their Authority.

And if Justices of Peace in Sessions, make Orders for Parishes to provide Houses, or to give any Persons Maintenance who are not impotent, but able to work, or having any thing to live upon, those Orders are against Law, and Justices in Sessions cannot transfer their Authority over to others; as to appoint other Justices to make an Order, &c. Bulst. Rep. 347. Styl. Rep. 154.

If a Man shall be removed by Warrant of two Overseers for-  
Justices from one Place to another, and the Church-wardens or Overseers refuse to receive him, they shall forfeit 5l. if re-  
wardens or Overseers refuse to receive him, they shall fuse to receive  
forfeit 5l. to the Poor of the Parish from whence Poor sent to  
removed, upon Proof of two credible Witnesses, be- them.  
fore one Justice of, &c. and for Want of Distress to  
be committed to Gaol for forty Days, without Bail.  
3 & 4 W. & M. c. 11.

One Justice of Peace residing near the Place where  
any shipwrecked Person, poor Soldier or Mariner  
shall land, ought to give him a Testimonial there-  
of, and a Licence to pass to his own Dwelling, &c.  
in a convenient Time.

Any one of those Justices of Peace who may ap- Justices may  
point Overseers for the Poor, may also send to the send Poor re-  
House of Correction, or Common Gaol, such as will fusing to work,  
not employ themselves in Work, being thereunto ap- to the House  
pointed by the Overseers according to 43 Eliz. And of Correction  
the Stat. 14 Car. 2. c. 12. extendeth not only to the  
Counties therein named, but also to other Counties  
where such great and large Parishes are.

If any Poor shall refuse to deliver the Stock deli- So if they will  
vered to them to work, two Justices may levy the not return the  
same by Distress, and in Default thereof may com- Stock intrust-  
mit such Offenders, as aforesaid. ed with them.

If the Child live in the County of *Middlesex*, and Justices where  
be maintained by the Parish there, and the Grand- Parent lives,  
father, &c. live in the County of *Suffolk*, the Justi- must make Or-  
ces of *Middlesex* can make no Order therein, but the der for Main-  
Justices of Peace of the County of *Suffolk*, must tenance.  
make Order to charge, &c.

If the Grandmother be a Person of Ability, and  
then marries, the Person with whom she marries is a  
Grandfather within the Stat. 43 Eliz. for by the  
Marriage all her Goods are given to the Husband,  
but with this Difference, If the Grandmother at the  
Time of the Marriage were of Ability, otherwise  
not. *Draper's Case*, also *Gervard's Case*.

So also if an Estate descend to the Wife after Mar-  
riage, the Husband shall be charged. So also may  
the Father be compelled to allow Maintenance to his  
Son's Wife (the Husband being absented) as was done  
in the Case of one *John Ball*, by Order, *Septemb. 2d.*  
15 Jac. 1. *Dalt. 226.*

None may be suffered to take Relief at any Man's None may  
Door, though within the same Parish, unless it be by take Relief at  
Order of the Overseers; neither may any be suffered Doors, but by  
to Licence of the  
Overseers.



Ad made to  
prevent clande-  
stine Settle-  
ments, nor  
publick Re-  
movals.

to beg by the Highway, though in their own Parish.  
*Dalt.* 241.

It has been adjudged that taking a House, and being rated to the Poor, and so observed by the Overseers in their Parish-Book, this amounts to Notice; because it is plain that the Acts of Settlement by which Notice in Writing and Publication of such Notice in the Church is enjoined to be given, were made to prevent clandestine Settlements, and not publick Removals, where the Parishoners might of themselves take Notice of Persons who come to be settled among them.

N. B. To gain a Servant a Settlement, the Hiring must be upon one entire Contract for a Year, and so must the Service also.

A Man must  
be taxed, and  
also pay to  
gain a Settle-  
ment.

It was resolved by the Court that where a Man is taxed to the Parish-Rates, and lives there forty Days or more, after he is taxed, and without giving Notice, &c. this doth not make a Settlement within the Act; because Taxing alone is not equivalent to Notice, but Taxing and Paying the Tax is equivalent both to the Delivery of Notice, and to the Publication of that Notice in Writing. *2 Salk. 523. 3 Salk. 253.*

Order must say  
last legally  
settled.

The Order of two Justices set forth, that the Person removed was lately settled in the Parish of C. &c. it should have been last legally settled, &c. and for that Reason it was quash'd. *9 Ann.*

Sessions not  
obliged to give  
any Reason of  
their Judgment.

The Order of two Justices was discharged upon an Appeal to the next Sessions; and upon a Motion to set aside this Order of Discharge, it was objected that the Sessions did not say whether it was discharged for a Defect in Form, or upon the Merits; for if it was for Want of Form, then the Parish, from which the poor Person was removed, is not bound; but if on the Merits, then it is bound; but adjudged that the Sessions are not obliged to give any Reason of their Judgment in the Orders they make, no more than any other of the Courts of Law. *2 Salk. 607.*

Order cannot  
charge a Feme  
covert.

The Sessions made an Order for a Feme Covert to keep and relieve her Grandchild; but it was quash'd, because her Husband ought to be charged by an Order, and not the Wife.

An Order was made to send an Idiot to the Parish where his Father was last legally settled; and this was adjudged a good Order. *2 Salk. 427.*

A poor

A poor Man lawfully settled in a Parish had several Children born there, and afterwards he and his Wife and Children went into another Parish and gained a Settlement there; and being likely to be chargeable, it was disputed where the Children should be provided for; and held that the Children must be settled in the second Parish, and not as Nurse-Children, but as Part of his Family.

Children must be settled where their Father was last legally settled.

It is true, if the Father had been dead, and the Mother had married a second Husband, settled in a third Parish, in such Case her Children by her first Husband must go with her as Nurse-Children, and not as Part of her Family: For this accidental Settlement of their Mother by marrying a second Husband, shall not gain a Settlement of her Children by her first Husband. *Salk. 259.*

Where a poor Man comes into a Parish with a Certificate, he cannot be removed unless he is actually chargeable to that Parish; for it is not enough to say that he is likely to be chargeable. *2 Salk. 530.*

One coming in by Certificate cannot be discharged unless actually chargeable.

It is now held that where a Parish gives a Certificate duly attested to a poor Man, owning him to be a Parishioner, though he be not really so, yet are they concluded and estopped, not only against the Parish to which the Certificate is given, but also against all other Parishes whatsoever; for Certificates are solemn Acknowledgments that the Person is legally settled with them; and as all other Parishes are bound to receive him, so that Parish which certifies is concluded, as to all other Parishes whatsoever; for it is in Nature of an Adjudication; it is signed by the proper Officers, and allowed by two Justices who are proper Judges, and who upon less Evidence could have adjudged it a Settlement. *3 Salk. 535.*

Parish is estopped against all the World by giving their Certificate.

Adjudged that where a poor Man, who hath a lawful Settlement in one Parish, comes into another by a Certificate, and gains a Settlement there, he shall not afterwards be sent back to the Parish certifying. *3 Salk. 253.*

But if a Settlement is gained in second Parish, not to be sent back to the first.

It hath been resolved that if two Houses are inhabited by several Families, though they had but one common Door into both, yet they are rateable, as two Houses; so if one House is divided by a Partition and inhabited by several Families, such are several Tenements rateable severally to the Poor; but if one Family remove, then it is but one Tenement again. *Dalt. 253.*

Resolved

None can be  
distrained by a  
Warrant made  
before the  
Rate.

Resolved *Trin. 3 Ann.* that a Man cannot be di-  
strained upon for the Poors Rate, by a Warrant  
made before the Rate, but there ought to be a Spe-  
cial Warrant for this particular Purpose.

One who possesses Lands lying in several Parishes,  
shall be rated in every Parish according to the annual  
Value of the Land lying in each Parish.

One Justice may bind an Apprentice. *Bond's Justice*  
189. *sed quare inde.*

Child sent to  
the Place of its  
Birth, where  
its last Settle-  
ment cannot  
be known.

An Order of two Justices to remove a Child from  
the Parish of *Rickmersworth* to the Parish of *St. Gyles's*,  
as being the Place of his Birth, the Place of his Fa-  
ther's last legal Settlement being unknown, was held  
good; for where the Place of the Father's last legal  
Settlement of a legitimate Child is not known, there  
the Child may be sent to the Place of its Birth as  
well as an illegitimate One: And poor Children ought  
to be kept and provided for by the Parish where they  
were born, and not where the Parents dye *in transitu*;  
for the Place of their Birth (where the Place of their  
last Habitation cannot be known) is in Judgment of  
Law the Place of Settling. 2 *Bulst.* 351. 352. 357.

The Sessions may not, as it seems, send the Child  
to the Grandfather or Grandmother, to be kept, but  
it may set a Rate only. 2 *Bulst.* 245. 246. 247.

No Soldier,  
&c. shall gain  
a Settlement  
unless dismis-  
sed the Service.

By 3 & 4 *W. & M. c. 11.* No Soldier, Seaman,  
Shipwright, or other Artificer or Workman, employ-  
ed in his Majesty's Service, shall have any Settlement  
in any Parish, Port, &c. by Delivery and Publica-  
tion of a Notice in Writing, as aforesaid, unless he  
be dismissed out of his Majesty's Service.

Parishioners  
may be Evi-  
dence in Acti-  
ons brought  
against Parish  
Officers, &c.

In all Actions to be brought in Courts of Record  
at *Westminster*, for Money mispent by Parish Officers,  
the Evidence of any of the Parishioners not receiving  
Alms, shall be taken and admitted in the Courts  
aforesaid. 3 & 4 *W. & M. c. 11.*

A War?



A Warrant for the Overseers of the Poor to account, and name other fit Persons for the Year ensuing.

To the Constable and Bursholders of A. &c.

Essex. ff. **T**HESE are (in his Majesty's Name) to command you to give Notice to the Church-wardens and other the Overseers of the Poor of A. that they are by us required personally to appear before us at the House of D. E. in C. &c. upon Monday the Tenth Day of May, at Nine of the Clock in the Forenoon of the same Day, to make and yield up unto us a true and perfect Account in Writing of all Sums of Money by them received, or rated, or assessed, and not received, for and towards the Relief of the Poor of A. and also of such Stock (to set the Poor on work) as is in their Hands, or in the Hands of any of their said Poor to work, and of all other Things concerning the said Office; and that hereof they fail not at their Perils. And you are further hereby commanded, to signify unto them, that they do then and there also certify unto us the Names of such other substantial Householders of A. as are thought meet to be Overseers of the Poor there, for the Year ensuing; and fail not at your Perils. Given under our Hands and Seals, &c.

43 Eliz. c. 2.  
Two Justices,  
one of the  
Quorum, with-  
in one Month  
after Easter,  
13 & 14 Car.  
2. c. 12. 4 &  
W. & M.

If there be no Nomination of Overseers of the Poor yearly, every Justice dwelling within the Division shall forfeit to the Poor 5l.

A Warrant to distrain for the Poor's Tax.

Essex. ff. **F**Orasmuch as Complaint hath been made by you unto us that the several Persons here-under named, have refused to pay unto you the several Sums of Money adjoined to their several Names, being assessed upon them severally, for and towards the necessary Relief of the Poor of the said Parish, according to the Form of the Statute in that Case made and provided: These are therefore (in his Majesty's Name) to command you that some or one of you do forthwith levy the said several and respective Sums of Money, by Distress and Sale of the several and respective Goods

43 Eliz. c. 2.  
Lamb. 292.  
293. Two  
Justices, one  
of the Quo-  
rum.

Goods of the said several Persons, rendering to the respective Parties the Overplus; and in Defect of such Distress, that then you some or one of you, do certify the same unto us, to the end that there may be such further proceeding touching the Premises as to Justice doth appertain. Given under our Hands and Seals, at A. the, &c.

A. B. 1 s. 6 d.

C. D. 1 s. 8 d.

**A Warrant to the Overseers of the Poor to pay Arrears, and continue weekly Relief to poor Persons.**

To the Church-wardens and Overseers of the Poor for the Parish of A. and to every of them.

43 Eliz. c. 2. **Essex. ff. W** Hereas Complaint hath been made unto me by A. B. of your said Town, that you R. G. and L. S. the now Overseers for the Poor of your said Parish, formerly paid unto the said A. B. the Sum of 1 s. 6 d. per Week, for and towards the Maintenance of her Self and Children; and that you do now suspend the Payment thereof, whereby the said A. B. is utterly disabled to provide for her Self and Children: These are therefore (in his Majesty's Name) to charge and command you the said Overseers, that presently upon Sight hereof you or some of you pay unto the said A. B. all such Arrears as are accrued since your forbearing the Payment of it, and that you continue the former Allowance of 1 s. 6 d. per Week unto her for the future, or forthwith to shew Cause why you refuse to make the same. And hereof, &c.

**A Warrant to levy the Arrears in the Hands of former Overseers.**

To the Church-wardens and Overseers of the Poor of the Parish of H. &c.

**Essex. ff. W** Hereas it appeareth unto us, upon your Complaint, that J. Q. and T. P. Church-wardens, &c. and R. N. and W. V. Overseers of the Poor of the said Parish for the Year last past, were in Arrear to the said Parish in the Sum of 5 l. for Monies by them collected, received, and not disbursed, in the Execution of their Office, and have not yet paid the same to you: These

These are therefore to command you, that you or some of you, do levy the said 5l. by Distress of the Goods of, &c. rendering to them respectively the Overplus; and in Default of such Distress, that then you forthwith certify us of the same. Given under our Hands and Seals, &c.

## An Order of two Justices for the Removal of a Person from one Parish to another.

To the Church-wardens and Overseers of the Poor of the Parish of F. in the said County, and to the Church-wardens and Overseers of the Poor of the Parish of L. in the County of Surrey, and to each of them.

Sussex. II. **U**PON the Complaint of the Church-wardens and Overseers of the Poor of the Parish of F. unto us whose Names are subscribed, two of his Majesty's Justices of the Peace for the County of, &c. and one of us of the Quorum, That A. R. came lately to dwell in the said Parish of F. not having gained a legal Settlement there, according to the Laws in that Case made and provided, nor produced a Certificate to them, owing him to be settled elsewhere; and that the said A. R. is now chargeable to the said Parish of F. and likely to continue chargeable so long as he dwelleth there: We therefore, upon due Proof made thereof, as well upon the Examination of the said A. R. on Oath, as otherwise, and likewise upon due Consideration had of the Premises, do adjudge the same to be true; and we do likewise adjudge, that the last Place of the lawful Settlement of him the said A. R. was in the Parish of L. &c. We do therefore require you to convey the said A. R. from F. to the Parish of L. And we do also hereby require you the said Church-wardens and Overseers of the Poor of the Parish of L. to receive and provide for him as an Inhabitant of your Parish. Given under our Hands and Seals, &c.

Church-wardens and Overseers refusing to receive Persons thus removed, and to provide for them, may be bound over to the Sessions, and indicted for a Contempt. 14 Car. 2. c. 12.



# A Warrant to apprehend a Person returning into a Parish from whence he was removed.

To the Church-wardens and Overseers of, &c.

13 & 14 Car.  
2. c. 12.  
One Justice.

Suffex. ff. **W** Hereas A. R. being in August last lawfully settled in the Parish of, L. &c. did come into the Parish of F. in the County of, &c. not having given Notice to the Church-wardens and Overseers of the Poor of the Parish of F. of the Place of her Abode, the Number of her Family, nor otherwise acquired a lawful Settlement there; and upon Complaint made by the Officers of the said Parish of F. that the said A. R. was likely to be chargeable to their Parish; they obtained a Warrant to remove her, and accordingly did convey and remove her to the said Parish of L. since which the said A. R. did of her own Accord, return to the Parish of F. from which she was removed: These are therefore to require you, or one of you, to bring the said A. R. before me, or some other Justice of the Peace of, &c. to shew Cause why she returned to the said Parish of F. and further to do and receive, as to Justice doth appertain. Given under my Hand and Seal, &c.

The Punishment is, to be sent to the House of Correction, to be whipt as a Vagabond. The Mitimus is as followeth:

## A Mitimus for Returning.

To the Constable of, &c. and the Keeper of, &c.

Suffex. ff. **A**S in the former Warrant to the Word (removed): These are therefore to require you, that you, or some, or one of you, do forthwith convey the said A. R. to the House of Correction, and there to deliver her to the Keeper thereof: Requiring you also, the said Keeper, to receive her into your Custody, and punish her as a Vagrant. Given under my Hand and Seal, &c.

Order

Order to send a poor Man from R. to A. was quashed <sup>5</sup> Mod. 163. ed, upon an Appeal; and upon a *Certiorari*, the Sessions Order was quashed, and the original Order confirmed; so that now the poor Man was settled at A. but he of his own Accord, returned to R. from whence he was first removed; and the Justices being of Opinion that they could not send him to the House of Correction, because the original Order was not before them, it being removed by a *Certiorari*, the Court of B. R. was moved for a Rule to enforce the Execution of the former Rule, by which the Sessions Order was quashed; but the Court directed that the former Rule should be shewed to the Justices, together with the original Order; and then if they refused to punish the Person thus returning, to make Affidavit of the Matter, and to move the Court again.

### A Warrant to remove a Person to the Place of his last Settlement.

**W** Hereas E. F. is lately come to the Parish of, &c. in <sup>13 & 14 Car. 2. 9 & 10 W.</sup> the County aforesaid, to endeavour to get a Settlement in the said Parish; and whereas we are informed by the Church-wardens and Overseers of the Poor of the said Parish of, &c. that the said E. F. is a Parishioner at, &c. and doth not rent in the said Parish of, &c. 10 l. per Ann. or hath done any Act to make him a Parishioner there; but notwithstanding, the said E. F. refuses to depart from the said Parish of, &c. or to get any Certificate from the Parish where he was legally settled, contrary to the Statutes in that Case made and provided: These are therefore, in his Majesty's Name, to command you to remove and convey the said E. F. from the said Parish of, &c. unto the said Parish of, &c. where he last lived a hired Servant for a Year, or the Place of his last legal Settlement, and to deliver him to the Church-wardens and Overseers of the Poor there, or some or one of them: Hereby requiring you the said Church-wardens, &c. of the said Parish of, &c. to receive the said E. F. as your lawful Parishioner, and provide for him accordingly. Given, &c.

A Warrant to remove a Person coming into a Parish by Certificate, on his becoming chargeable.

8 & 9 W. 3.

**W** Hereas A. B. by Virtue of a Certificate under the Hands and Seals of the Church-wardens and Overseers of the Poor of the Parish of, &c. subscribed and allowed by two Justices of the Peace, hath been permitted to come and reside in the Parish of, &c. about the Space of, &c. last past, for his better Maintenance and Livelihood, but as the Family of the said A. B. is since increased, he is not able to maintain them without Relief, whereby they are become chargeable to the said Parish of, &c. These are therefore, in his Majesty's Name, to command you to convey the said A. B. and his Wife and Family, to the said Parish of, &c. where they are, by Certificate above recited, owned and acknowledged to be settled Inhabitants and Parishioners, and that you do deliver them to the Overseers, &c. of the said Parish, together with this Precept, &c. Given, &c.

A Warrant to levy Monies, in the Hands of Overseers, by Distress, &c.

43 Eliz.

**W** Hereas Complaint hath been made unto us by, &c. that A. B. and C. D. &c. Church-wardens or Overseers of the Poor of the Parish of, &c. for the Year last past, on their Accounts, are in Arrear (or, have not accounted for) the Sum of 3 l. 10 s. Part of the Monies by them collected and received during the Time of their Offices, and have not yet paid the same to you as they ought. These are therefore, in his Majesty's Name, to command you to levy the said Sum of 3 l. 10 s. on the Goods and Chattels of the said A. B. &c. by Distress and Sale thereof, rendering to them the Overplus; and in case you cannot find a sufficient Distress to levy the same, that then you do convey the said A. B. &c. to the common Gaol of, &c. aforesaid, there to remain until they shall pay the said Sum of 3 l. 10 s. according to the Direction of the Acts of Parliament in that Case made and provided. Given, &c.

A War-



**A Warrant to levy the Forfeiture of Church-wardens, &c. refusing a poor Person removed by Order of the Justices.**

**W** Hereas A. B. who some Time since came from the 3 & 4 W. & M. Parish of, &c. to the Parish of, &c. and there endeavouring to get a Settlement contrary to Law, was, by Virtue of an Order made and signed by, &c. two of his Majesty's Justices of the Peace for the County aforesaid, lately removed from the said Parish of, &c. to the said Parish of, &c. where I am informed the said A. B. is a legal Parishioner and Inhabitant; and was refused to be received by, &c. the Church-wardens and Overseers of the Poor of the said Parish of, &c. as hath been duly proved, contrary to the Statutes in that Case made and provided, whereby the said Church-wardens, &c. have forfeited the Sum of 3 l. These are therefore, in his Majesty's Name, to command you to levy the said Sum of 3 l. on the Goods and Chattels of the said, &c. the Church-wardens and Overseers aforesaid, &c. Given, &c.

**A Warrant and Commitment of a Person for running away, and leaving his Family upon the Parish.**

**W** Hereas A. B. and C. D. Overseers of the Poor of <sup>43 Eliz.</sup> the Parish of, &c. have made Information upon Oath before us, that E. F. of the Parish of, &c. a Person able to work and maintain himself and his Family, did on, &c. last past, run away from the said Parish of, &c. and leave his Family upon the said Parish, contrary to the Acts of Parliament in that Case made: These are therefore, in his Majesty's Name, to command you the said Constable, &c. that you, some or one of you, do apprehend the said A. B. if he be within your Liberty, and him safely convey to the Gaol of, &c. aforesaid, and deliver him to the Keeper thereof: Hereby also requiring you the said Keeper to receive the said A. B. into your Gaol, and him there to keep until he shall be from thence delivered by due Course of Law. Hereof fail not at your Perils. Given, &c.

## Pope and Popish Books.

To extol the Power of the Pop-  
- &c. first Offence is Pre-  
- mure, second  
Treason.

**T**O extol the Power of the Pope, or Bishop of *Rome*, or of his See, heretofore claimed in this Realm, by writing, printing, preaching, speaking, or any open Act advisedly done; or to abet, counsel, &c. such Persons as do so, is for the first Offence a *Pre-mure*, for the second High Treason. *5 Eliz. c. 1 Dalt. 231.*

It must be certified by the Sessions, before whom the Presentment was taken within forty Days after, into *B. R.* if in Term-time; if not, then the first Day of the next Term; otherwise every Justice before whom it was taken forfeits 100 *l.*

Buyer or Seller of Popish Books forfeit 40 s.

Printer, Buyer, Seller or Bringer from beyond Sea, of any Popish Primers, Lady's Psalters, in any Language, or other superstitious Books in *English*, forfeits 40 s. for each Book, one third to the King, one third to the Informer, and one third to the Poor where the Book is found.

Two Justices may search Popish Houses, &c.

Two Justices of Peace may search the House or Lodgings of a Popish Recusant for Popish Books and Relicks, and finding any unfit for them to use, may deface and burn them, but being of Value, may deface them, and restore them to the Owner. *3 Ja. 1. cap. 5.*

Poffe

## Posse Comitatus.

**I**N all Cases where the Justices of Peace, Sheriff or One Justice, other Officer is enabled to take the Power of the County, he may command the Attendance of all Persons in the County above the Age of Fifteen, who are able to travel. *Dalt. c. 130.* &c. Sheriff, &c. may seize the Posse Comitatus.

But Women, Ecclesiastical Persons, and decrepit or diseased Persons, shall not be compelled to attend them; and, in such Cases, it is in the Discretion of the Justice, &c. what Number he will have, and after what manner they shall be armed; and all Persons required ought to assist them, and one Justice alone may take the Power of the County for suppressing a Rior, without waiting for another Justice. So in Cases of forcible Entry. All Persons required must assist them.

So may the Sheriff or other Officer, to apprehend a Popish Recusant standing out excommunicate.

So also the Sheriff, Under-Sheriff, or Bailiff, &c. Sheriff may if Need be, may, by the Common Law, take the *Posse Comitatus* to execute the King's Process, or Writ, whether it be of Execution, Replevin, &c. *5 Co. Rep. 185.* raise the Posse to execute Process.

Those who will not assist, being lawfully required, may be bound to their good Behaviour, and shall be fined. Refusers to assist may be fined.

If a Supplicavit be directed to a Justice, he may, upon Resistance, either by himself, or by his Warrant, take the *Posse Comitatus* to arrest the Party, tho' he be a Peer. *5 Co. 115. b.*

Besides this, the Sheriff's Writ of Assistance, which is under the Great Seal, commands all Archbishops, Bishops, Dukes, Earls, Barons, and other Subjects within the same County, to be aiding to him in whatsoever concerns his Office. Writ of Assistance.

A Constable, in the Execution of his Office, may require the Aid of his Neighbours, or of others present, to assist him; and if they refuse to assist him, they may be indicted and fined. Constable may require the Aid of Neighbours.

And indeed, so every Conservator of the Peace at Common Law, and every Judge of any Court of Record, may require Help of others to arrest all such



as shall go about in their Presence to break the Peace.

Any one may assemble his Neighbours in his own Defence.

Every Person may assemble his Friends and Neighbours to defend his Person, &c. being in his House, against Violence, &c. but not to go Abroad with them to Fair or Market, &c. 11 Co. f. 82.

21 H. 7. 39.

Information of a Riot is a sufficient Cause to raise the Power of the County, tho' indeed there were none. DIAL 473.

Sheriff find for not raising the Possé, &c.

Sheriff, upon a Writ of Execution, returned, that he could not execute it for Resistance, and was amerced twenty Marks, because he took not the Power of the County. DIAL 314.

## Postage of Letters.

9 Ann.

An Act for settling the Post-Office.

None but Post to carry Letters except, &c.

SOON after the Restoration of King Charles the Second, an Act of Parliament passed for erecting a General Post-Office in England; and in the first Year of K. W. 3. an Act of Parliament passed in Scotland for erecting a Post-Office in that Kingdom; but in the ninth of Queen Anne, after the Union, an Act of Parliament passed for repealing both those Statutes, and for uniting both the said Post-Offices, and for erecting and settling one General Post-Office throughout all his Majesty's Dominions; by which it is enacted, That there shall be one General Post-Office in London, and one Post-Master-General, who shall have the sole Receiving and Dispatching all Letters within this united Realm, and without, &c. except Letters which concern Goods sent by common Carriers, and which shall be delivered with the Goods, without any Profit for receiving or delivering them; and except Merchants Letters, and those of Masters of Ships, so as such Letters be delivered to the Persons to whom they are directed, without receiving any Profit for them; and except Commissions, Affidavits, Writs, &c. and any Letters sent by private Friends in their Journey, or by any Messenger about private Affairs or Businesses.

Provido, that Carriers do not receive Letters which do not concern Goods then in Carrying, nor Drivers

of Stage-Coches, nor Masters of Passage-Boats, nor Passengers thereon, nor Watermen or Bargemen, tho' without Hire or Reward.

The Post-Master General, and his Deputies, and no other Person, shall provide Horses and Furniture for any Person riding Post, where any Post-Roads shall be settled, at the Rate of 3 d. per Mile for every Post-Horse, and 4 d. for the Guide, and shall not charge any thing for carrying a Bundle, so as it does not exceed eight Pounds.

And for Letters he shall take, viz.

For every single Letter not coming from or directed on Ship-board, and to and from any Place in England not distant above eighty Miles from London, 3 d. and for every double Letter, 6 d. and for Packets of Writs, Deeds, or other Things, 12 d. per Ounce; for every single Letter above eighty Miles from London, 4 d. and for a double Letter 8 d. and for other Things 1 s. 4 d. per Ounce; for every single Letter from London to Edinburgh, or vice versa, 6 d. and a double Letter, 12 d. and for other Parcels 2 s. per Ounce; for every single Letter from Edinburgh to any Place not exceeding fifty Miles in Scotland, 2 d. and for a double Letter 4 d. and for other Parcels 8 d. per Ounce; and if above fifty Miles, 3 d. and for a double Letter 6 d. and for other Parcels, 12 d. per Ounce; if above eighty Miles, then for every single Letter 4 d. and for a double Letter 8 d. for other Parcels 1 s. 4 d. per Ounce; for the Postage of Letters and Packets directed on Board or brought from any Vessel riding or stopping in any Port in England, 1 d. over and above the said Rates; And for the Postage of all Letters and Packets passing and repassing by the Penny-Post, and to be received and delivered within ten Miles distant from the General Post-Office, 1 d.

The Post-Master may erect Cross Stages, and he or Post-Master his Deputy may demand and receive the same Rates, may erect in any such Cross Stages, in Proportion to the Distances of Places, as Letters to and from London are rated.

He may appoint one to measure the Roads by the Wheel, except such Roads where the Stages are already settled; and He who makes such Survey shall make Oath before some Justice, &c. in each Kingdom respectively, to perform the same according to the best of his Skill, and the Justice, &c. shall certify the same in Writing, to be kept and entered in the General Post-Office without Fee.

Provido,

Proviso about  
Merchants Ac-  
counts.

Proviso, that Merchants Accounts not exceeding one Sheet, and all Bills of Exchange and Invoices, and Bills of Lading, shall be allowed to pass without Rate in the Price of Letters, and likewise the Covers of Letters not exceeding one fourth Part of a Sheet, sent by the Way of *Vienna, Marseilles, Venice or Leghorn*, to be sent to or from *Turky*.

Penalty of set-  
ting up any  
other Post, &c.

None other than the Post-Master-General, or his Deputies, shall receive, take or carry Letters, either by Land or Sea, or provide Horses for riding Post, or collect any Letters, or set up any Foot-Post, Horse-Post or Packet-Boat, or other Conveyance for the carrying or delivering Letters, under the Penalty of *5 l.* for every Offence, and also *100 l.* for every Week that the Offender shall continue the said Offences.

And of Post-  
Master not  
providing Post-  
Horses.

If thro' the Default or Neglect of the Post-Master any Person riding Post shall fail of being provided with sufficient Horses after Demand, the Party offending shall forfeit *5 l.* one Moiety to the Crown, the other to the Prosecutor, to be recovered in any Court of Record.

Mail must be  
carried in Eng-  
lish Ship.

Proviso, that if the Mail be carried out of *England* in any Vessel which is not a free Ship, and navigated by Seamen, as by the Law is required, that then the Post-Master-General shall forfeit *100 l.* one Moiety to the Crown, the other to him who will sue, to be recovered by Bill, Complaint or Information.

How the Po-  
stage of Let-  
ters is to be re-  
covered.

All Money due for Letters not exceeding *5 l.* shall be recovered in the same Manner, and under the same Rules, as small Tithes, by Complaint in Writing before two Justices, who may summon the Party complained of, and, on Default of Appearance, determine the Cause, and give Allowance and Costs not exceeding *10 s.*

If the Party refuse to pay in ten Days after Notice, the Constables, &c. are to distrain by Warrant from the Justices, and the Distress is to be sold in three Days.

Where the Po-  
stage is to be  
paid.

All inland Letters must pay at the Stage where last delivered, unless they are directed to any Ship or Vessel, or to any Person in the Army, or sent by the Penny-Post, and unless Letters going out of *Great Britain*, which have usually paid Rates in *England*.

After the first of *June, 1743*, the old Rates shall be taken for Letters again.

Persons



Persons opening, detaining or delaying any Letter after the same is delivered into the General Post-Office, except by Warrant in Writing under the Hand of a Secretary of State, or unless the Person to whom directed refuses to pay the Postage, or where the Letter shall be returned for Want of true or due Direction. Person so offending, or imbezilling a Letter, forfeits 20*l.* to be recovered in the Courts at *Westminster*, if in *England*; if in *Scotland*, in the Court of Sessions or Exchequer, by such Person who will sue, with full Costs; and Offender is disabled and incapable of any Employment in the Post-Office. Penalty of opening or stopping Letters, &c.

Post-Master General, and all in any Employment relating to the Post-Office, must take the Oath following, before one Justice of Peace of the County where such Person resides.

**I** A. B. do swear, that I will not wittingly, willingly or knowingly open, detain or delay, or cause, procure, permit or suffer to be opened, detained or delayed, any Letter or Letters, Packet or Packets, which shall come into my Hands, Power or Custody, by Reason of my Employment in or relating to the Post-Office, except by Consent of the Person or Persons to whom the same is or shall be directed, or by an express Warrant in Writing under the Hand of one of the Principal Secretaries of State for that Purpose; or except in such Cases where the Party or Parties to whom such Letter or Letters, Packet or Packets, shall be directed, or who is or are hereby chargeable with the Payment of the Port or Ports thereof, shall refuse or neglect to pay the same; and except such Letters or Packets as shall be returned for want of due Directions; or when the Party or Parties to whom the same is or shall be directed, cannot be found; and that I will not any way imbezil any such Letter or Letters, Packet or Packets, as aforesaid. The Post-Master's Oath. Except, &c.

It is enacted by Stat. 6. Geo. c. 21. that when Bills of Exchange are sent wrote on one and the same Piece of Paper with a Letter, as also several Letters to several and distinct Persons, are sent wrote on one and the same Piece of Paper, that every such Bill, and every such Letter, should be rated and paid for as so many several and distinct Letters, according to the Rates 9 *Ann.* When Letters are to pay double.

And whereas by the Act 9 *Ann.* it is provided, that all Bills of Exchange, Invoices, and Bills of Lading, shall be understood to be allowed without Rate in the Price

Price of the Letter; and some Doubts having been made touching the said Proviso: it is by the said 6 of K. Geo. declared and enacted, That it was and is the Intent and Meaning of the said Act, that the said Proviso and Allowance shall extend only to such Merchants Accounts, Bills of Exchange, Invoices, and Bills of Lading, as shall be sent to or from the General Post-Office in London, to any Parts beyond the Seas not within his Majesty's Dominions: And that all other Merchants Accounts, Bills of Exchange, Invoices and Bills of Lading, shall be rated and paid for as to many several Letters, according to the Rates mentioned in the said Act, 9 Ann.

Cafe of a Letter opened at the Post-House.

A Letter, in which there were Bills of Exchange, was delivered at the General Post-Office in London, to one who was appointed by the Post-Master to receive Letters, and there it was opened, and the Bills taken out; and in an Account brought against the Post-Master, three Judges, against Holt Chief Justice, held, that it would not lie, because this was an Office of Intelligence, and not of Insurance, or of Conveyance of Treasure; but the Chief Justice held, that the Action would lie, because the Post-Master hath a Reward, which is the Reason that Inn-keepers and Carriers are to keep Goods safely.

A Warrant to take a Distress for Money, ordered to be paid by two Justices, for Postage.

9 Ann, c. 19.

**Excer. ff.** **W** Hereas on Complaint this Day exhibited by A. B. of, &c. unto us W. B. and J. S. Esqrs; two of his Majesty's Justices of Peace for the County aforesaid, That L. M. of, &c. has refused to pay the Sum of, &c. by him justly due for Postage of Letters, and the Sum of, &c. which are awarded for Costs on his Refusal, as aforesaid, upon examining into and determining the Cause of Complaint, according to the Direction of the Statute in that Case made: These are therefore to require you to levy the said several Sums of, &c. on the Goods of the said L. M. by Distress and Sale, if not redeemed in three Days, and for your so doing, this shall be your sufficient Warrant. Given, &c.

**Premu**

## Premunire.

THE Statute of 16 Ri. 2. c. 5. is commonly called The Punish-  
the Statute of *Premunire*, and by it the Offender ment in a *Pre-*  
shall be put out of the King's Protection, and shall munire.  
forfeit his Lands and Tenements in Fee for ever, in  
Tail during Life, and his Goods and Chattels to the  
King, be committed during the King's Pleasure.  
3 Inst. 211. And if he be not in Prison, then *quod ca-* The Form of  
*piatur.* 2 Saund. 389, 390, 391, 392. Raym. 212, an Indictment  
374. and Judgment.  
1 Vent. 171.

There are several other Statutes made, by offending  
against which a Man incurreth a *Premunire*, and there-  
by is always intended that he shall have such Punish-  
ment as is to be inflicted on those who offend against  
the said Statute.

To sue in the Ecclesiastical Courts for a Thing  
merely temporal, or to sue in the Admiralty for any  
thing not done *super altum mare*, hath been adjudged  
to be a *Premunire*.

The Statute of 5 Eliz. c. 1. makes it Felony to kill  
one attainted by a *Premunire*; for before that Time,  
as being out of the King's Protection, he might have  
been killed by any Person whatsoever, without any  
Danger of Punishment by the Law.

present.



## Presentment.

Wherein Presentment differs from an Indictment.

**T**HIS is an Accusation in Writing, formed and drawn up by the Jurors themselves, without any Bill brought before them; and it differs from an Indictment which is always the Verdict of a Grand Jury, upon a Bill drawn up in Writing, and laid before them.

There is another Sort of Presentment, and that is of the Copyholders in Court of a Surrender of a Copyhold out of Court, and sometimes of a Freehold by particular Custom. 4 Co. 9. b.

A Presentment for false Weights must have in it, that the Offence is within the Jurisdiction, if in a Court-Leet, at least, it is the better Way. *Hob. 129.*

A Justice of Peace, upon his own Knowledge, may present Offences against the Statute of 2 & 3 P. & M. c. 8. and 5 Eliz. c. 13. and the other Statutes about the Highways. *Dalt. 99. 1 Cro. 125 b. 195 a.*

## Pretended privileged Places.

All pretended Privileges taken away in the Savoy, White-Friars, &c.

Sheriff may raise the Posse Comitatus.

**T**HE Savoy, White-Friars, Salisbury-Court, Ram-Alley, Mitre-Court, Fuller's Rents, Baldwin's Gardens, Mountague-Close, the Mint, the Clink, and Dead-man's Place, having set up several Pretences to be privileged Places, and that no Writ or Process ought to be executed in any of them, an Act of Parliament passed 8 & 9 W. 3. c. 27. whereby it was enacted, That all Persons having Money owing from any Person in any of the said pretended privileged Places, may, upon a legal Process taken out, require the Sheriffs of London and Middlesex, the Head Bailiff of the Dutchy Liberty, or the High Sheriff of Surrey, or Bailiff of Southwark, or their Deputies or Officers, to take the Posse Comitatus, and arrest such Person, or seize their

their Goods upon Execution or Extent; and such Sheriffs or Officers neglecting or refusing, are to forfeit to the Plaintiff 100*l*. And every Person opposing or resisting such Officers, shall forfeit 50*l*. and be by any one Justice committed to the County Gaol, without Bail or Mainprize, till the next Assizes, Sessions of Oyer and Terminer, or general Gaol-Delivery, and be set in the Pillory, and suffer such Imprisonment as the Court shall think fit.

And if any *Rescous* be made of any such Prisoners, The Forfeiture the Persons aiding therein shall respectively forfeit to in Case of the Plaintiff 500*l*. which Forfeiture, with Costs of Rescues. Suit, not being paid within one Month after Judgment; for the Recovery thereof, the Person so refusing or neglecting, shall be transported to some of the Plantations for seven Years, and returning again within the seven Years, shall be Guilty of Felony, without Benefit of Clergy.

And the Persons inhabiting within any such pretended privileged Places, harbouring any Person a Rescuer who shall have made such *Rescous*, shall be transported as aforesaid, unless they pay the Plaintiff the whole Debt and Costs, within one Month after Conviction.

Which Law had its due Effect for some short Time, but after a few Years, several lawless and disorderly Persons having again, by Degrees, sheltered themselves and settled again in the *Mint*; and several Disorders and Violences having been again committed there; by a Statute made 9 Geo. 1. c. 28. it was enacted, That Act 9 Geo. for whoever knowingly and willingly shall obstruct or suppress the oppose any Person to execute any legal Process, or Mi t. any Warrant of Justices in the *Mint* or *Suffolk-Place*; or shall assault or abuse another in executing the same, or for having so done, whereby he shall receive any Damage or bodily Hurt; being convicted thereof, shall be guilty of Felony, and be transported.

On Complaint of three Justices of *Surry* by a Creditor of any Person in the *Mint*, and who hath taken out a legal Process against such *Mint*, and making Oath before the said Justices, that a Debt exceeding 50*l*. at the least, is due to him, and that he believes such Person resides in the *Mint*; the said Justices may grant a Warrant to the Sheriff of *Surry* and his Bailiffs, requiring them to raise the *Posse Comitatus*, or such Force as they think fit, and enter the *Mint*, and, upon Resistance, to break open the Doors,

Sheriff of *Surry* may raise the *Posse*, &c.

## Pretended privileged Places.

upon *mesme* Process to arrest the Person, and to seize the Goods upon an Execution, &c. the Sheriff refusing, &c. shall forfeit 200*l.* to the Plaintiff, to be recovered by Action of Debt, &c. resisting an Officer or rescuing a Prisoner, or concealing him or any of the Rescuers, and being thereof convicted within six Months after the Offence, shall be Guilty of Felony, and be transported.

**Penalty of wearing a Vizard, or going disguised.**

Any Person wearing a Vizard, Mask, or disguised Habit, or having his Face or Body disguised, shall, within the said Place, &c. join in or aid, or abet any Riot or Tumult there, or shall in any Vizard or Disguise knowingly oppose the Execution of any legal Procefs, &c. or assault or abuse any Person, serving such Procefs, &c. or for having so done, being lawfully convicted thereof, shall be Guilty of Felony, and shall be transported, &c.

**Forty Pounds  
Reward for  
apprehending  
such an Offender.**

Every Person who shall apprehend such an Offender shall be intitled to a Reward of 40*l*. and if kill'd in the endeavouring to apprehend such an Offender, his Executors, &c. shall be intitled to the same Reward.

If any such Apprehender or Prosecutor is Guilty of any the said Offences, not being in Prison for the same, and convicting two or more of any the said Offences, he shall not only have the Reward of 40l. but shall also be intitled to a Pardon.

Ad 11 Geo.  
for suppressing  
the new Mint.

A<sup>d</sup> 11 Geo. This Statute immediately drove these disorderly  
for suppressing People out of the *Mint*, and dispersed them; yet not  
the new *Mint*. so but they gathered themselves together again, and  
settled themselves in the Hamlet of *Wapping, Stepney*;  
but upon passing such another A<sup>d</sup> of Parliament,  
*Anno undecimo Georgii 1.* they again utterly dispersed  
themselves, and have not since been heard of.

All personal  
Privileges in-  
here always in  
the Survey.

There may  
be the Pale  
of the...

**Prison.**



## Prison. See Gaol.

**A** Prison is a Place where a Person is restrained from his Liberty, and is in the Custody of the Law till he be thence discharged; and a Man is said to be in Prison so long as he is in Sight of his Gaoler, though he break away. *Dalt. 679. Dyer 440.*

The Commitment ought to be by a Judge of Record, and by a lawful Warrant.

The Common Gaol is the Place to which Justices of Peace must commit Murderers and Felons, and not elsewhere. *Which are Prisons.*

Though the Stocks and the Prisons of a Lord of a Franchise, nay, the bare Custody by any who hath lawfully taken the Offender, or the House of a Constable or other Person, where a Prisoner is lawfully detained, are looked on as Prisons in the Eye of the Law; and a Felon escaping from any of these Places is Guilty of a Breach of Prison; but then there must be an actual Force, for if he go out, the Doors being open, it is not Felony.

Rescuing him to bring him away, is Felony in the Rescuer: If the Gaoler permits a voluntary Escape, it is Felony in him; but if the Escape is negligent, and not voluntary, it is Felony in the Prisoner, and a Misdemeanor only in the Gaoler. *Rescuing a Felon is Felony.*

If the Prisoner is of Ability, he must bear his own Charges, and of those who are appointed to carry him to Gaol and if he refuse, then it may be levied by the Headborough of the Parish, by Warrant from the Justice, who committed him, by Distress and Sale of his Goods, after an Appraisement by four of the Inhabitants. *Prisoner must bear the Charges of carrying him to Gaol.*

If he is not of Ability, then the Charges must be born by the Parish where he was taken, by a Tax made by the Constable, Church-wardens, and two or three of the Inhabitants, to be allowed by a Justice of Peace. *3 Fac. 1. c. 10.*

The Sheriff of every County is to have the keeping of the Gaol of the County, except such as do hold by Inheritance, or Succession, Lease for Life, or Years. And all Letters Patent, made to any for Life, or Years, of such Gaols, are void, King's Bench and Marshalsea excepted. *19 H. 7. c. 10.*

Constable may  
pinion a Felon,  
&c.

Constable having one suspected of Felony in his Custody, may lock the Stocks and put Irons on him, and in conveying him to the Justice or Gaol may pinion him, or otherwise secure him, that he cannot escape. *Dalt.* 473.

Constable cannot imprison in his House, or in the Stocks, but only till he can get convenient Aid to convey him to a Justice of Peace, or to the Gaol. *Dalt.* 470. *Lamb.* 133.

Three Justices of Peace shall settle Fees for Commitments, Discharges, and Chamber-Rent, one being of the *Quorum*. By 22 & 23 Car. 2. c. 20.

Justices of Peace shall examine and find out Legacies and Gifts to poor Prisoners, and with the Circuit Judges confirm the Fees, &c. writ in a Table and hung up in the Prison. *Ibid.*

Infant must  
find Sureties.

Infant may find Sureties for the Peace, or be committed till he do.

What is Felony in the Constable.

If a Constable voluntarily suffereth a Thief to drown himself, it is Felony in the Constable; but if the Thief privately kill, hang, or drown himself, it is a negligent Escape. *Dalt.* 379.

Defendant in any Action for a Distress taken by Force of the Stat. 3 Jac. 1. c. 10. may plead Not guilty, and give the Special Matter in Evidence, and upon Recovery or Nonsuit, shall have treble Damages. 3 Jac. 1. c. 10.

Setting Traitors at Liberty is Treason.

A Man outlawed for Felony, is imprisoned among Traitors, and breaking Prison setteth them loose, this is *Rescous* of a Traitor, and Treason. 1 Cro. 35. 5 & 6.

Criminal not to be removed to other Prisons, without a Writ.

Persons, Subjects of this Realm, committed for any Crime, shall not be removed into Custody of any other Officer, unless by some legal Writ, unless in Case of Fire, Infection, or Necessity. And Persons signing any Warrant for Removal, contrary hereunto, or countersigning the same, and Officer or Officers obeying or executing such Warrant, shall for first Offence, forfeit to the Party grieved, 100 l. and for the second Offence 200 l. and be incapable to hold his Place, to be recovered in any of the Courts at Westminster, by 31 Car. 2. c. 2.

Where a Felon is to be committed.

If a Man commit Felony in one County, and be arrested for the same in another County, he shall be imprisoned in that County where he is taken. *Dalt.* 585.

And all Letters Patent made to any for Life, or Years, of such Gaols, are void, King's Bench and Justice

Justice of Peace, Constable, or other Officer, pursuing a Felon into another County, takes him there, the Felon shall be committed to the Gaol of the County where he was taken.

But if the Constable hath arrested one upon a Warrant of a Justice of Peace, and he escapes from the Constable and flieth into another County, the Constable may pursue and take him in the other County, by fresh Suit, and bring him before the Justice on whole Warrant he was first arrested. Where if a Felon has escaped from the Constable.

If a Man be arrested for Felony, and the Constable shall carry him to the Gaol, and the Gaoler will not receive him, the Constable must bring him back to the Town where he was taken, and that Town shall be charged with the keeping him till the next Gaol-Delivery; or the Officer who arrested him may, in such Case, keep the Prisoner in his own House. Where Gaoler will not receive the Prisoner.  
Dalt. 586.

But the Gaoler denying to receive a Felon by the Delivery of any Constable or Township, or taking any thing for receiving such, shall be punished for the same by the Justices of Gaol-Delivery. *Ibid.*

When a Stat. appoints Imprisonment, but limits no Time when the Offender shall be imprisoned, then he is to be imprisoned presently. And when a Stat. doth appoint Imprisonment, but limits no Time how long, in such Case the Prisoner must remain at the Discretion of the Court. When no Time of Imprisonment is limited.

If a Gaoler licenſe his Prisoner to go Abroad for a Time, and then to come again, or to go Abroad with a Keeper, though he come again, yet these are Escapes, and finable; and if the Prisoner were in Execution, the Gaoler shall be charged with the Debt. *Dalt. 586. Co. 3. 44. 1 Ric. 2. c. 12. 7 H. 4. c. 4.*



## An Indictment against a Prisoner for breaking Gaol, and letting out other Prisoners.

Essex. ff. **J** A R, &c. quod A. B. nuper de D. in Com' p'ed' Labourer 7 die Justit Anno Regni, &c. apud D. p'ed' in Com' p'ed' arrestat' & imprisonat' fuit in Gaola dict' D'ni Reg' apud D. p'ed' in Com' p'ed' pro diversis felonis p' ipsum perpetrat' p'ed' 7 die Justit Anno supradicto bi & armis, &c. quodq; ipse p'ed' A. B. p'ed' Gaol' ant' dicti D'ni Regis apud D. p'ed' in Com' p'ed' fregit & C. D. de &c. & L. M. de &c. Labourers p'isonarios in eadem Gaola erissen' adunc & ibid. felonice ad lazarum ire permisit contra pacem, &c.

## Process.

Accused so be heard.

**I**T is but consonant to Justice and to right Reason and Equity, that the Accused should be as well heard to clear himself, as others are to accuse him.

Therefore if he be present and confess the Indictment, he shall be forthwith committed till he make Fine or give Sureties.

If he be absent, Process shall be awarded against him, to come in and make his Answer.

Warrant may be either in the Name of the King or the Justice.

The Warrant of a Justice is only to attach and convene the Party before Indictment, and may be either in the Name of the King or of the Justice. Process is always in the Name of the King, and after an Indictment found, or other Proceedings.

How the Authority of making Process is given.

The Authority of making Process upon Indictment is given by express Words in the Commission. In other Cases, by some Statutes, and sometimes to Justices out of their Sessions, sometimes to one single Judge. See Title *Forcible Entry*, and Title *Sheriffs*.

It is likewise in other Cases implied necessarily in the Words *hear* and *determine*, as where Power is given to the Justices out of Sessions to hear and determine; for otherwise the Justices cannot proceed, unless the Party come in *gratis*.

If

If the Party be absent; first a *Venire* is usually awarded by the Justices under their own *Teste*; and if thereupon he be returned sufficient and makes Default, a *Distringas* infinite, is to be awarded till he come in; but if a *Nihil habet*, &c. be returned at first, then after a *Venire Facias*, a *Capias*, and then an *Alias*, and after a *Pluries* shall go forth, and after that an *Exigent*, till the Party yield himself, be taken, or outlawed. *Dalt. c. 143.*

These are the ordinary Processes upon Indictments of Trespas against the Penal Statutes, not being Felony, or greater Offence.

These Processes are to be directed to the Sheriff, To whom dis- except himself or his Officers be Parties, and then it rected. seemeth such Process shall be directed to the Coron- ers of the County.

The King's Process must be with a *Non omittas propter aliquam libertatem* &c. but the *Teste* may be under the Name of a Justice.

If the Party be outlawed the Justices can make no *Capias Utlegatum*, but must certify the Outlawry to the King's Bench. Justices cannot make out *Capias Utlegatum*.

*Process* (as well of *Capias*, &c. as of Outlawry) may be stayed by a *Superedeas* from other Justices, testifying that the Party hath found Sureties to answer or to pay his Fine.

The Authority of Justices in sending these *Processes* out of Sessions, is beyond the Bounds of their Commission, and therefore they must have the Authority of some Statute, either express or at least by Implication.

By Stat. 11 H. 6. c. 6. it is provided that no Plea, Not discontinued by a new Commission of the Peace. Suit, or Process, taken before Justices, shall be discontinued by a new Commission of the Peace. 1 Ed. 6. c. 7.

One Indicted of Treason or Trespas in one County, is imprisoned in another, the Justices may award an *Habeas Corpus* to remove him before themselves. *Lamb. 526.*

Process upon Indictment of Felony may be sent into any foreign County. 5 Ed. 3. c. 11.

Process upon Indictment of Felony, is two *Capias's* and an *Exigent*. 13 E. 3. c. 14.

Process upon Informations must be such as the Statute whereupon they are grounded doth appoint. *Lamb. 528.*

If the Sheriffs Name is not endorsed upon the *Venire Facias* or *Distringas*, it is erroneous. 2 Cro. 188.

Process against  
an Alehouse-  
Keeper.

Information is made in the Sessions that an Alehouse-Keeper hath done any thing whereby he hath forfeited his Recognizance, the Justices of Peace may award Process against him, to shew Cause why he should not forfeit his Recognizance. *Lamb. 524.* but *Quer.* what Process.

Justices can-  
not award  
Process on for-  
feited Recog-  
nizance.

Process cannot be awarded by the Justices of Peace upon any forfeited Recognizance, except Ale-houses, but they must certify them to the higher Courts.

If a Man is indicted for Murder, there shall be but one *Capias*, and then an *Exigent*.

But by 25 *Ed. 3. c. 14.* if for Robbery, there shall be two *Capias* before the Outlawry.

New Justices may award Process on Indictments taken before former Justices. 11 *H. 6. c. 6.*

Where Justice  
can send Pro-  
cess into ano-  
ther County.

A Justice of the County or Town-Corporate, may award as many Writs of *Capias* as are necessary, to any Sheriff or Officer in another County, where a Servant or Apprentice in Husbandry, &c. resides, who hath departed from his Master, contrary to 5 *Eliz. c. 4.* and these may be made returnable before himself, what Time he pleaseth.

Justices in a County where a Person is indicted of Treason, Felony, or Trespas, may award Process to the Sheriff of another County, where the Party is abiding, to apprehend him.

## Prophecies.

Penalty, &c.  
of seditious  
Prophecies.

IF any one shall publish by Writing, Speech, or Deed, &c. any phantastical or false Prophecy, upon or by Occasion of Arms, Fields, Beasts, &c. or by Reason of any Time, Year, Day, &c. he shall for the first Offence, be imprisoned a Year without Bail, and forfeit 10*l.* for the second Offence be imprisoned for Life, and forfeit all his Goods to the King and Prosecutor. 5 *Eliz. c. 15.*

All and every Justice of Assize, Justice of Oyer and Terminer, and Justices of the Peace, have Authority to hear and determine these Offences, so as the Party be accused within six Months. *Ibid.*

Purveyance.



## Purveyance.

**B**Y Stat. 12 Car. 2. c. 24. it is provided that no Purveyance of Victuals, or Carriages for the King, Queen, or their Children, shall be in the old Way, without the Owner's Consent. And if there be any Justice of Peace near the Place, the Constable of the Place, upon Complaint of the Party grieved, may commit the Offender to the Gaol till the next Quarter-Sessions, and then to be proceeded against for it; and the Party grieved may have his Action against the Offender, and recover treble Damages, and treble Costs. And if any, in such a Case, procure, delay, or unduly hinder Judgment and Execution, he shall incur a *premunire*.

Penalty of making illegal Purveyance.

And no Preemption is now allowed to the King or his Family, in or out of Market; but it is free to the Subjects to dispose of their Goods as they please.

King has no Preemption but Tin.

A Clause for saving the King's Right to Preemption of Tin, and also of his Prizage and Butlerage.

Purveyor or Badger, &c. bargaining for any Victual or Grain in the Markets of Oxford or Cambridge, or in five Miles of them, forfeits quadruple the Value thereof, and to be imprisoned three Months without Bail, except when the King is there, or within seven Miles Distance.

No Badger to be within five Miles of Oxford or Cambridge.

## Indictment for unlawful Purveyance.

Essex. s. J. et R., et. quod nono die Julii Anno Regni, et. quidam A. B. nuper de D. in Com' pzed' Labourer apud K. in Com' pzed' colore purveyance pzo dicit' D'no Rege duas vaccas pzeil' sex librarum de bonis & catallis ejusdem C. D. adtunc & ibid. erissen' inventos lassile & illicite cepit & abduxit contra voluntatem ipsius C. D. & contra pacem dicit' D'ni Regis necnon contra formam Stat. in hujusmodi casu editi, et.

*Nulla*

## Quakers.

Penalty of  
Quakers meet-  
ing, &c.

**B**Y a Statute made 13 & 14 Car. 2. c. 1. Persons called Quakers, were not to assemble above five in Number, of the Age of Sixteen Years or more, under Pretence of religious Worship, not established by Law, under Penalty of 5*l*. for the first Offence, and for Want of Distress and Nonpayment, within one Week after Conviction, three Months imprisonment in Gaol or House of Correction. For the second Offence 10*l*. and six Months Imprisonment. The third Offence the Offender shall abjure the Realm, or the King may order the Offender to be transported to any of the Plantations beyond Sea.

But they were exempted from these Penalties by the 1 W. & M. c. 18. and by 7 & 8 W. 3. c. 34. every Quaker, where an Oath is lawfully required, should instead of the Oath, make a solemn Declaration in the Form in that Act prescribed. But by the 8 Geo. 1. c. 6. instead of the solemn Affirmation or Declaration prescribed by that Act, they are to make the solemn Declaration or Affirmation following:

The Form of  
their solemn  
Affirmation,  
&c.

*I A. B. do solemnly, sincerely, and truly declare and affirm, &c.*

And instead of the Declaration of Fidelity, appointed to be made and subscribed by Quakers, by 1 W. & M. c. 18. they are to make and subscribe the Declaration of Fidelity mentioned in 8 Geo. 1. c. 6.

And of their  
Declaration.

And instead of the Form prescribed by 1 W. & M. c. 18. for the Effect of the Abjuration Oath, they are to take that mentioned 8 Geo. 1. c. 6. and the Quakers, subscribing the Declaration of Fidelity and the Christian Belief before two Justices, shall be intitled to the Benefit of that Act.

Quakers not  
to serve on  
Juries, &c.

By 7 & 8 W. 3. c. 34. made perpetual by 1 Geo. 1. c. 7. no Quaker shall be a Witness in Criminal Causes, or serve on Juries, or bear any Office or Place of Profit in the Government, and the above-said Declaration shall be taken to be of the same Force in all Courts of Justice as an Oath, and shall in like manner incur the same Penalties as if Guilty of Perjury; and all Persons authorized to administer an Oath, are required to tender the abovesaid Declaration,

Non, &c. to Quakers in the Words appointed by  
8 Geo. 1. c. 6.

Quaker refusing to pay Tithes or Church-Rates, Method of su-  
two next Justices uninterested, on Complaint of any ing a Quaker  
Person, &c. may, by Warrant, convene such Person for Tithes, &c.  
refusing, and may examine (on Oath, or in such Man-  
ner as by this Act is provided) the Merits of the  
Cause, and determine accordingly, by Order under  
Hand and Seal; provided the Sum does not exceed 10*l*.  
On Refusal of Payment, one Justice may by War-  
rant levy it by Distress and Sale, rendering the Over-  
plus after Charges allowed. Appeal to Quarter-Ses-  
sions, who may confirm or reverse the Decree of two  
Justices. On confirming, Costs shall be given to the  
Appellant, to be levied by Distress and Seal: Not to  
be removed by *Certiorari*, unless the Title of such  
Tithes be in Question. In Case of Appeal, no Warrant  
of Distress to be granted till Appeal be determined.  
Justice may give Costs, not exceeding 10*l*. by 1 Geo.  
1. c. 7.

### Quarentine.

BY Stat. 7 Geo. 1. c. 3. the 9 Ann. c. 2. is repealed, and  
by it is enacted, that Ships coming from Places in-  
fected, shall perform their Quarentine in such Places,  
Time, and Manner, as the King shall appoint; and  
till they are discharged thereof, no Person or Goods  
therein, shall come on Shore, or into any other Ship,  
&c. nor shall any go on Board such Ship, without  
Licence in Writing, under the Hand of such Person  
who shall be appointed to see the Quarentine per-  
formed. And all Ships, Persons, and Goods, &c.  
during such Quarentine, shall be subject to such  
Orders and Directions therein, as shall be made by  
the King, and notified by Proclamation. And if  
any Master or Commander shall offend against this  
Act, such Ship, with her Tackle, Apparel, and Fur-  
niture, shall be forfeited to the King; and if any  
other Person shall offend, those appointed to see the  
Quarentine performed, may compel him in Case of  
Resistance, by Force, to return on Board, there to  
remain, &c. And after Quarentine, shall by Oath  
of

Method of  
establishing a  
Quarentine.



of one Witness, before one Justice, be liable to pay not exceeding 20*l.* to be forthwith paid into the Hands of the Justice, who may give Informer a third Part, and the rest to the Poor. In Default of Payment, to be sent to the House of Correction to hard Labour for a Month. Justices adjoining to Counties or Places where Quarentine is performed, are required to keep Watches Day and Night, at most convenient Places in their Parishes, with Orders not to permit any Person to come on Shoar, or go on Board any Ships under Quarentine, except such as have the Charge of seeing Quarentine duly performed.

When Quarentine is performed, Ship, &c. is at Liberty.

After the Quarentine performed, and Oath made by the Master or Persons having Charge of the Ship, and two of the Persons belonging thereto, before the Customer, Controller, or Collector of the Port, or their Deputies, or any Justice of Peace near adjoining, that such Ship or Vessel, and all and every the Person and Persons therein, have duly performed the Quarentine; and that the said Ship or Vessel, and all the Persons on Board, are free from Infection; the said Customer and two Justices are to give a Certificate thereof, and thereupon the said Ship, &c. to be liable to no further Restraint, &c. and the Officer, &c. before whom the Oath is made, and by whom the Certificate is given, shall demand no more than 1*l.* for each, besides the Stamp-Duties: And after Quarentine the Goods imported are to be opened and aired, &c.

Ship not to come from Place infected.

By the said Stat. it is enacted, that if any Ship shall come from any Place infected, or have any infected Person on Board, and the Master, &c. shall not discover the same, he shall be adjudged Guilty of Felony, without Benefit of Clergy.

Persons going on Board, must perform their Quarentine.

Persons not infected, nor liable to Quarentine, who shall enter any Ship, &c. so appointed, as *supra*, whilst any Person infected or under Quarentine shall be therein, are not to return without a proper Licence, but must perform their Quarentine; and if such Person shall actually escape before they have fully performed their Quarentine, they shall be Guilty of Felony, without Benefit of Clergy.

The King may provide Laza-ries.

His Majesty is empowered to order Ships to be provided, or Lazarets, for entertaining Persons infected with the Plague, or obliged to perform Quarentine, and Sheds and Tents, &c. for opening and airing of Goods in convenient Places on waste Grounds, &c.

be allowed by two Justices of Peace, under their Hands and Seals, paying a Consideration, &c.

Any two Justices next the Place where any Ship shall be performing Quarentine, or whercin any infected Place shall be situate, may order the Inhabitants to keep sufficient Watches by Day and Night, who are not to permit any Persons or Goods to depart out of the Lines, &c. Inhabitants refusing to keep such Watch, and Persons refusing to serve as Watchmen, being convicted by the Oaths of two Witnesses, shall forfeit, not exceeding 100*l*. nor less than 10*l*. at the Discretion of the Justices, one Moiety to the Informer, and the other to the Poor, leviable by Distress and Sale, and be committed to Prison for two Months, and till the Penalty is paid. The Charge of Watches is to be maintained by the County in such Manner as for County Gaols and Bridges.

Two Justices  
to appoint  
Watches, &c.

If any Officer of the Customs, or other Officer, or Person whatever, who is to see Quarentine performed, &c. shall be Guilty of any wilful Breach or Neglect of his Duty, on that behalf, he shall forfeit his Office, and be incapacitated, and shall also forfeit 100*l*. one Moiety to the King, the other to the Prosecutor, to be recovered by Action of Debt, &c.

Penalty of  
Officers not  
doing their  
Duty, &c.

All small Boats and Vessels, under the Burden of twenty Tons, may be prohibited by his Majesty's Proclamation, from sailing or passing out of any Port or Place of Great Britain, &c. in Time of Infection, till Security be given in 500*l*. with Sureties as directed by this Act by Bond, with Condition: viz. That if such Boat or Vessel shall not go to or touch at any Country Place, or Port, to be mentioned for that Purpose in such Proclamation; and if the Master or other Person, having Charge of such Boat, &c. or any Mariner or Passenger, shall, during the Time of Infection, go on Board any other Ship or Vessel at Sea, or permit or suffer any Person to come on Board such Boat or Vessel at Sea, or shall receive any Goods or Merchandise whatsoever, out of any other Ship or Vessel; and if such Boat, &c. shall sail before such Security given, 'tis forfeited, together with Tackle, Apparel, &c. to the King, and may be seized, sued for, and recovered, in his Majesty's Exchequer.

Small Vessels  
not giving Se-  
curity, to be  
forfeited.

Master of such Boat not giving Security, &c. forfeits 50*l*.

The Master and Mariner of such Boat or Vessel, being thereof convicted on the Oath of one or more credible Witnesses, forfeits 50*l*. one Moiety to the Informer, the other to the Poor of the Parish where such Offender shall be found. To be levied by Distress; and for Want of sufficient Distress, to be committed to Prison, without Bail, for three Months.

When Officer is guilty of Felony.

If any Officer appointed to see *Quarentine* performed, or any Watchman shall knowingly suffer any Person or Ship to depart, or Goods to be conveyed out of any Place infected, unless with Licence, he shall be guilty of Felony.

All Goods to be opened and aired.

All Goods after *Quarentine*, are to be opened and aired at the Places appointed for such Time as his Majesty shall order; and in case of Infection, his Majesty may make Orders concerning *Quarentine*, &c. and notify the same by Proclamation, to which all Persons Civil and Military, are to render Obedience.

Master not to quit his Ship till *Quarentine* performed.

By 8 *Geo. 1. c. 25.* If any Master shall quit his Ship, or suffer any other so to do, &c. before *Quarentine* performed, or shall not cause the Ship or Lading to be conveyed to the Place appointed for *Quarentine*, then every such Ship shall be forfeited to his Majesty, and the Master forfeits 200*l*. Other Persons quitting the Ship are liable to the same Penalty, and six Months Imprisonment.

Persons receiving or buying any Goods clandestinely run, knowing thereof, shall forfeit 10*l*. Half to the Informer, and the other Half to the Poor, to be levied by Distress and Sale of Goods.

Persons receiving or buying any Goods clandestinely run, knowing thereof, shall forfeit 10*l*. Half to the Informer, and the other Half to the Poor, to be levied by Distress and Sale of Goods.

Forts, &c. to resist Ships entering, &c.

Officers of Ships of War, Forts, Garrisons, &c. are to resist the Entrance into Ports, of Ships infected, and may use any Kind of Force and Violence; and if any Ship shall come from any Place visited with the Plague, or have Persons or Goods infected on Board, and the Master, &c. shall not discover it, he is to suffer as a Felon.

Ships coming from infected Places, or loaded with Cargoes taken on Board at any infected Place, or from Ships infected, such Ships, Goods, &c. may be burnt.

Persons aggrieved may appeal to Q. Sessions.

Persons aggrieved by any Judgment of any Justice or Justices for any Offence against the Act 1 *Geo. 1. c. 3.* may appeal to next Quarter-Sessions, who are finally to determine the same, and to give reasonable Costs, in Case Judgment go against Appellant.

Quarter-



Quarter-Sessions is to determine, assess, and settle Sessions to settle Differences concerning such Rate, Rent, or Consideration the Rent, &c. between Persons interested, and the Persons appointed by his Majesty for Grounds, where the Waste or Common is not sufficient; and their Judgment and Determination is final.

By 8 Geo. 1. c. 8. It is enacted that the above recited Act of 7 Geo. 1. c. 3. shall not continue in Force any longer than till *March 25th 1723.* and further that it should be lawful for the King, by Proclamation to be issued before *Dec. 12th 1722.* to prohibit all Persons to go to, or to export any Goods or Commodities whatever, to any Place infected before *March 25th 1723.* and at the same Time in like Manner to prohibit all Persons whatsoever to come from any Country or Place infected, into *Great Britain or Ireland,* or the Dominions thereunto belonging, and to import any Goods or Commodities.

King may  
Prohibit Per-  
sons going or  
coming from  
Places infected.

All Goods exported contrary to the Meaning of such Proclamation, and the Vessels in which exported, shall be forfeited; and Persons going contrary to such Proclamation, are Guilty of a *Præmunire*: And it shall be lawful for any Person by Force to hinder any such Ship from entering any Port; and if such Ship shall enter notwithstanding it shall be forfeited, and every Person so offending, shall be Guilty of Felony, without Clergy: And all Goods imported, and all Persons procuring such Goods to be imported, shall forfeit treble the Value thereof; two Thirds to the Crown, the rest to the Informer.

Goods and  
Ship, &c. for-  
feited, if act  
against such  
Prohibition.

A Cer-

## A Certificate that a Ship hath performed Quarentine, and is free from Infection.

**W**E A. B. Customer of the Port of, &c. and C. D. and E. F. Esqrs. two of his Majesty's Justices, &c. do hereby certify that the Ship called, &c. lately arrived in the said Port, and the Cargo thereof, have duly performed Quarentine, of which due Proof has been made before us by the Oaths of, &c. as the Law requires: We do therefore certify the same as the Statute directs, that all Persons may take Notice thereof, and permit the said Ship and Persons to pass, &c. without further Restraint or Molestation. Given, &c.

## Recognizance.

Recognizance  
what.

**A** Recognizance is a Bond of Record, taken usually by a Judge or Officer of Record, testifying the Recognizor to owe a certain Sum of Money to some other. *Dalt. c. 127.*

A Recognizance is a Record presently, before it be made up in Form.

A Justice of Peace by his general Authority may deliver a Recognizance into the King's Bench, with his own Hand. *Palmer 311.*

The Notes that are taken in Paper, are good Records. *2 Roll's Rep. 239.*

The Justice may take a Recognizance of 1000*l.* for the Peace, if the Person be dangerous. *Stile 322.*

Must be made  
to the King.

All Recognizances taken by Justices of Peace, must be made to the King, by the Words (*Dom' Regi*) upon Pain of Imprisonment, and such Recognizances are in Nature of a Statute Staple. *33 H. 8. c. 39.*

In some Cases Justices of Peace are enabled to take Recognizances by express Statutes; in other Cases, it is rather by Congruity, than either by their Commission or Statute; as where a Statute gives them Power to bind any Man to appear at the Assizes, &c. to take Sureties for any Matter, or but to cause a Person to do any thing; in all these Cases they have

(in

(in Congruity) Power given them to bind the Party by Recognizance to do it, or commit him.

In Case where a Justice has Power to take a Recognizance, if the Party refuse to be bound, the Justice, &c. may send him to Gaol. 11 Rep. 52. If Party refuse to be bound, he may be committed.

By 4 & 5 W. & M. c. 18. Every Justice of Peace may take Recognizances from Persons procuring Informations in B. R. to be entered to the Person against whom such Informations are to be exhibited in the Penalty of 20l. that he, she, or they, will effectually prosecute such Informations, and abide by and observe such Rules and Orders as the Court shall direct. Person procuring Information, to be bound, Sec.

The like upon removing Indictments by *Certiorari*. See before Tit. *Certiorari*.

Justices may take Recognizances out of Sessions. Where one Justice may take Recognizance. One Justice may take Recognizance for the Peace or Good Behaviour, by their Commission, upon Complaint made to him, or upon a Supplicavit delivered to them.

One Justice may bind by Recognizances those, who can give Evidence against a Felon, to appear at the Assizes, &c.

He may bind such as keep common Alehouses, &c. Whom Justice or unlawful Games, that they keep them no longer; and such as play at unlawful Games, that they use the same no more. 33 H. 8. c. 9. Whom Justice may bind in Recognizance.

May bind Takers of Partridges, &c. and Hawk-ers in Corn, to appear at the next Sessions.

May bind those convicted for destroying Pheasants, &c. that they offend not thereafter.

May bind a Master abusing his Apprentice, &c. to appear at the next Sessions.

May bind Witnesses to appear and give Evidence against a Felon, and Prosecutor to appear and prefer his Bill and give Evidence.

Two Justices may take Recognizances of Alehouse-keepers for keeping good Orders.

May bind an Alehouse-Keeper (committed for Victualling without Licence) that he keep an Ale-house no more. Where two Justices may take Recognizance.

May bail Prisoners to find Sureties for their Appearance, &c.

May bind the Defendant, in a Suit of Tithes, to obey the Sentence of the Judge.

May bind an Offender of a Penal Statute to appear at the Sessions.



Justice can take Recognizance only for what concerns his Office,

A Justice can take no Recognizance, but only for such Matters as concern his Office; and if he take a Recognizance where he hath no Power, it is absolutely void.

These Recognizances are to be certified by the Justices at the next Quarter-Sessions, except such as are to inform against Felons, and upon Bailment of Felons, which by Statutes they are to do at the next General Gaol-Delivery. 3 H. 7. c. 1.

Sum is left to Justice's Discretion.

If a Recognizance for the Peace be taken by a Justice *ex officio*, the Number and Sufficiency of the Sureties, the Sum wherein, &c. and the Time how long, is wholly left to his Discretion. But if it be taken upon a *Supplicavit*, &c. it must be done as the Writ prescribes; yet if no Sum be expressed therein, &c. the Justice, as to such Matter, is left to his Liberty.

Justices in their Sessions may examine the Sureties upon Oath of their Sufficiency. *Crompt. 194.*

Where Recognizance is void.

If a Justice bind one for his Life, he cannot afterwards release him. If the Recognizance be general, and no Time limited, it shall be intended for Life. If no Mention be made in the Recognizance, or in the Condition of it, that it is for the Preservation of the Peace, such Recognizance seems to be void. So it is if the Party be bound not to beat or maim *J. S.* for it ought to be to keep the Peace in general, but it is good, though no Time of Appearance be contained in it.

Where Justice may keep it uncertified.

A Recognizance to keep the Peace towards the King and all his People, or towards *A.* only, or towards *A.* and his Servants, is good. A Justice who takes Recognizances by Virtue of a *Supplicavit*, may keep it uncertified till he receive a *Certiorari*.

Justices cannot award Process, &c.

The Justices cannot award any Process upon a Recognizance forfeited, but they must certify the same with the Cause of Forfeiture into some of the Courts at *Westminster*.

What are Forfeitures of Recognizance.

*N. B.* If the Sureties die, the Principal is not compellable to find new Ones.

Generally whatever is a Breach of the Peace, is a Forfeiture of the Recognizance entred into for the keeping it.

Menacing Words to the Person himself, at whose Suit he was bound to the Peace, is a Breach of it; otherwise it is in the Absence of such Party, unless he lies in wait to put in Execution his Menaces. Every Assault, Battery, going with Armour or unusual

usual Attendance in Terror of the People; Commanding another to break the Peace, if it be afterwards done; False Imprisoning, Thrusting another into the Water, whereby he is in Danger of Drowning; Rape, Burglary, Robbery, Murder, or Manslaughter, or procuring the same, Treason against the King's Person, Assembling riotously, Wounding one another at Backsword, &c. though they play by Consent; all these are Forfeitures of the Recognizance. *Dalt. cap. 84.*

But if the Parent chastise his Child within Age; What are not the Master his Servant, or Apprentice, the School-Forfeitures. master his Scholars, the Gaoler his unruly Prisoners, a Person confining his mad Relations, a Constable, &c. striking a Person that will not yield to his Arrest; Beating another in Defence of his own Person or the Person of his Father, Mother, Master, Child within Age, (not able to defend himself) or of his Goods or Possession, his lawful Way, or ancient Water-course; the Executing the Law, as Whipping, &c. by an Officer authorised; unlawful entering into Lands, &c. (though with Force) so that it be without Violence to the Person of any one, or Terror to the People; or taking away another Man's Goods wrongfully or feloniously, so it be not from his Person; all these are no Forfeitures of the Recognizance. *Ibid.*

If a Person be to appear at a certain Day, his Appearance must be recorded to have been on that very Day. *Appearance must be Recorded.*

One bound generally to the King and all his People, may, upon his Appearance at the Sessions, be discharged by Proclamation.

The Conusor must appear, and his Appearance be recorded, though his Recognizance be not certified by the Justice. *Though Recognizance be not certified.*

If the Recognizance be removed by *Certiorari*, the Conusor need not appear at the Sessions, for the Justices cannot call him, having nothing before them.

Neither the Justice or Party can release, or otherwise discharge one bound to the Peace for his Life. *One bound for Life cannot be discharged.*

One bound by the Justice at his Discretion, to appear at a certain Day, may be released by him, and this shall excuse his Appearance.

A Recognizance to keep the Peace toward *A.* only, may be released by *A.* alone; and such Release certified to the Sessions, discharge the Conusor of his

Justice must  
certify it, tho'  
released.

What a Dis-  
charge of a  
Recognizance.

Who can take  
Recognizances.

The Method of  
taking a Re-  
cognizance.

Appearance; so it is of a Recognizance *versus cunctum populum & precipue versus A.* it seems *A.* may release it.

The Justice ought to certify the Recognizance to the Sessions, though released.

*N. B.* The Peace may be released before any Justice, *ore tenus*, and a *Relaxatur* is entered thereupon.

The Demise of the King, the Death of the Conusor, or of him at whose Suit the Peace was granted (whether the same were to be kept towards himself alone, or *versus cunctum populum & precipue versus himself*) if the Recognizance be not forfeited, shall discharge it. *Lamb. 116.*

The King himself cannot take a Recognizance, for he cannot be a Judge, but ought to have Judges under him.

None can take a Recognizance but a Judge of Record, or by a Commission, as Judges of both Benches, Justices of Peace, and the like. Conservators of the Peace, by the Common Law, cannot take Surety of the Peace by Recognizance, but by Obligation. *Br. New Cases, f. 112.*

A Recognizance being Matter of Record, an Indictment will not lie for Breach of it, but a *Scire Facias*. *Raym. 196.*

When you take a Recognizance, it must be made in *Latin*, but the Condition, the Name, the Place of Abode, and the Trade or Calling, both of the Principal and Sureties, are to be punctually set down, and the Principal is to be bound in double the Sum which the Sureties are bound in.

When it is entered or made up, you read the Condition to the Parties bound, calling them by their Names thus:

*You acknowledge to owe unto our Sovereign Lord the King, &c.*

These Recognizances are to be engrossed on Parchment, to which the Justice subscribes his Name, but the Persons bound need not set their Names to it.

It is expedient for the Justice to keep a Book, in which he ought to enter his Recognizances thus:

*A. B. de C. in 20 l. ad comparand' ad proximas Assisas* or *Session' pacis* (as the Case is) bound over on Suspicion of stealing an Horse from *R. S.*

Sureties *B. W. de L. ?*  
*R. N. de B. } 10 l.*

This



This is discretionary in the Justice, and when once taken, if he is deceived in the Ability of the Sureties, he may compel the Party to put in more, but this is when the Recognizance is taken *ex officio*, and not by Virtue of a *Supplicavit*. The Sum Discretionary in the Justice.

If the Sureties die, the Recognizance is good against their Executors, but the Justices can award no Process upon it, for it must be certified into B. R.

These are to be certified notwithstanding the Death of the King, or the Death of the Cognizor, or of the Party, at whose Suit they are taken; nay, though they are released. How Recognizance is to be certified.

If they concern the Evidence against Felons, they must be certified the next Gaol-Delivery. 2 & 3 Ph. & M. c. 10.

A Man was bound in a Recognizance for his Good Behaviour, and being afterwards taken by a Constable, upon a Suspicion of Felony, he escaped. Adjudged that though no Felony was committed, and though the Constable took him wrongfully, yet his Escape is Misbehaviour, and by Consequence his Recognizance is forfeited. *Godb. 221. 2 Leon. 166.* Recognizance forfeited.

But a Recognizance is not forfeited for opprobrious Words, for though such Words may be Provocations to break the Peace, yet they do not immediately tend to it, as Assaulting and Threatning do. *Cro. Eliz. 89. 4 Inst. 180. 181.* Not by opprobrious Words.

Neither is it forfeited for beating in Defence of his Child, Father, Mother, Master, Goods or Possessions, nor in the Defence of his Way, if ancient, &c.

If the Recognizance is not already forfeited, it is discharged by the Demise of the King or Death of the Cognizor, or by a Release of the Party *ore tenus*, or by the Justice himself, to be written under the Recognizance. The Form thereof see in Release, Tit. *Behaviour*. How it is discharged.

### The Form of the Release of the Party is thus:

Release of it. *Essex. ff.* **M**emozand' quod 27 die Augusti Anno D'ni 1720. J. M. venit coram me J. S. Hr' un' Justic' D'ni Regis ad pacem in Com' pzed' conserband' assign' & gratis remisit & relaxabit quantum in se est pzed' securitatem vacis per ipsum versus pzetat' A. B. perit'. In cuius rei Testimonium ego pzetat' J. S. huic relaxationi sigillum meum appolui Datum, &c.

This Release being certified by the Justice, the Person is discharged from Appearance, because the Recognizance was to preserve the Peace, which being discharged by the Release, the Appearance is likewise discharged.

Any Recognizance that may be taken by one or two Justices out of the Sessions, may be taken by all the Justices in the Sessions.

What Recognizance must contain.

Every Recognizance must have these Things in it; the Time of making it, the Justice's Name before whom, the Names of the Persons bound, with the Additions of their Places of Habitation, Trade, &c. the Sum they are bound in. It must be made to the King, and in his own Name; if for the Peace, to appear at the next Sessions of the Peace; if for Felony, at the next Gaol-Delivery; and it should be in *Latin*, and wrote on Parchment, but being on Paper it is good in Law.

How the Condition of it runs.

The Condition usually is, to keep the Peace or Good Behaviour against all Men, and especially *T. W.* till the next Sessions, and then to appear, &c. this is the best Form. But if against all Men only, or against *J. S.* only, it be to keep the Peace, &c. and not to appear, or say not when or before whom to appear; or if it be to appear, at another, not the next Sessions, or to keep the Peace and set down no Time, or for a Year, or for Life; these are good. *Lamb. J. P.* 103. 104.

If no Time be set down, it shall be taken for his Life that is bound.

If no Time be set down when to appear, the Obligor may appear at any Time; but it is safe to appear the next Sessions. If it be not set down before whom, he may appear before any Justice of Peace. *Dalt.* 393.

If

If any Release be made of the Recognizance or *Superfedeas*, so that it be discharged, the Recognizance must be certified with the Release, and the *Superfedeas* annexed. And albeit the King or any of the Parties should die before the Sessions, yet these Things are to be certified to the Sessions; yet though the Recognizance be not certified, the Party must appear. *Ibidem.*

If a Man be bound to appear at the Assizes or Sessions, and the Recognizance be before that Time removed by *Certiorari* into the Chancery or King's Bench, this will discharge his Appearance. *Dalt.* 395.

The Justices of Peace at Sessions, are to call the Party Conusor; and if he do appear, and the Prosecutor appear also, and he be willing to discharge the Conusor, (if it be of the Peace) they do usually discharge him; but if he desire he may be continued, and shew Cause, they do continue him. If the Prosecutor do not appear, they do usually bind him over two or three Sessions. *The Method of calling them at Sessions.*

If the Condition be general against all Men, and not against any Person in particular, they do usually make Proclamation, and then discharge them. *Dalt.* 214.

N. B. The Recognizance runs *de terris & tenementis bonis & catallis, &c. fieri levari, &c.* and yet the King may be at his Election to take the Execution of the Bodies of the Recognizors, (as well of the Principal as of the Sureties) or of their Lands and Chattels, for the Sum in the Recognizance contained; *per Cur.*

7 Hen. 4. 34. 4.

And it seemeth by the Common Law, before the Stat. of 33 H. 8. c. 39. in all these Cases where a Man is Debtor to the King, as well his Body as his Lands and Goods are liable to the King's Execution. *The Body of a Debtor to the King, is liable as well as his Lands.*

3 Rep. 12. b. Co. 11 Rep. 93. a.

Although it hath been holden that the Justice of Peace, or the Party who first demanded the Peace, might release the same before the same Justice of Peace that took the Recognizance, or before any other Justice of Peace: As also that he might release such Surety of Peace by Deed under his Hand and Seal, so as to discharge his Appearance on the Recognizance.

Yet it is now holden that neither the Justice of Peace nor the Party can discharge the Recognizance of the Peace, by their Release out of the Sessions. *Neither Justice or Party can release a Recognizance out of Sessions.*



Because first the Recognizance is made to the King, and therefore none but the King can release or discharge the same. Secondly, the Recognizance is taken for the Appearance of the Party, &c. (as well as for his keeping the Peace) and the Release of the Justice, or of the Party, cannot discharge the Appearance of the Party bound. And therefore notwithstanding that the Justice of Peace out of Sessions, shall make or take any Release of the Peace, yet it shall be safe, for the Party bound, to appear, to save his Recognizance; and upon the Certificate made by the Justice of Peace to the Sessions of such Release, the Conusor shall be there discharged (at least) against the Party who craved the Peace. *Dalt.* 397. 398. Tho' the common Usage is otherwise. *1 Cro.* 139. *Nu.* 15.

Nor the King  
before it is  
forfeited.

Nor can the King in any Case release or pardon the Surety of the Peace, nor such Recognizance, till it be forfeited; but being forfeited, then the King and no other may release and pardon the Forfeiture.

Where the  
Death of, &c.  
discharges the  
Recognizance.

The Death of the King, and the Death of the Recognizor, and also the Death of the Party, at whose Suit the Peace was taken, discharge the Recognizance, if it were to keep the Peace against him alone.

But yet in these three former Cases, such Death shall discharge the Recognizance, if it were forfeited before.

Where the  
Executors shall  
be charged  
with Recognizance.

The Death of the Sureties shall not discharge the Recognizance, neither shall the Party principal be compelled to find new Sureties after their Death; for if the Peace be broken after their Deaths, their Executors shall be charged therewith; yet others are of Opinion that the Principal shall be compelled to find new Sureties. *Dalt.* 398.

Where it is  
discharged by  
Superfedeas.

Also such Surety for the Peace may be discharged by a *Superfedeas* made by another Justice of Peace of that County, or by a *Superfedeas* out of the Chancery or King's Bench.

Whatsoever Act is a Breach of the Peace, the doing, threatening, or intending thereof, against the Person of another being present, is a Forfeiture of his Recognizance.

Case of Recognizance.

N. B. If a Man be bound in a Recognizance for himself and his Servants, if any one of them break the Peace, the whole Recognizance is forfeited, & sic in similibus.

A Recognizance should be *quod conservaret pacem*, but it was *garderet pacem*; and yet adjudged good. *1 Cro.* 390.

A Re-

A Recognizance.

Essex. H. **M**emozand' quod 9 die Augusti Anno  
 Regni D'ni nostri Georgii secundi, &c. See before  
 primo R. G. de F. in Com' pzed' Beoman & J. C. Tit. Bail, and  
 de P. Husbandman & J. W. de G. pzed' Husband Behaviour.  
 man personaliter venerunt coram me J. S. Sr. un'  
 Justiciar' dict' Com' Reg' ad pacem in Com' pzed'  
 conserved assign' & recognoverunt se debere dicto  
 D'no Regi viz. pzed' R. G. & J. C. separatim in  
 decem libris & pzed' J. W. in viginti libris bone &  
 legalis monete Regni Britannie de bonis & catallis  
 terris & tenementis suis separatim fieri & levare ad  
 opus dicti D'ni Regis Hered' & successorum suorum  
 si J. W. pzed' defecerit in conditione indorsat', if in-  
 dorsed, or infrascripta, if underwritten.

A Condition for Breach of the Peace.

**T**HE Condition of this Recognizance is such, that if  
 the above-bound J. W. shall personally appear in Court,  
 at the next General Quarter Sessions of the Peace, to be held  
 &c. to answer unto such Matters as shall be then and there  
 objected against him by J. S. of, &c. concerning an Assault  
 and Battery lately made upon the said J. S. by the above-  
 bound J. W. and concerning some other Misdemeanours,  
 tending to the Breach of the Peace; and that if he do not  
 depart without Leave of the Court, then this Recognizance  
 to be void, otherwise to be and remain in Force and Virtue.

A Con-

## A Condition for a Misdemeanour.

Midd. ff. **T**HE Condition of this Recognizance is such, that if the said R. G. shall personally appear before the Justices of Peace at the next Sessions of the Peace, to be held for, &c. and shall then and there answer unto such Misdemeanours which shall be objected against him; and that he doth not depart without Leave of the Court, then this Recognizance to be void, &c.

## Condition to prefer a Bill and give Evidence.

**T**HE Condition of this Recognizance is such, that if the within-bounden R. G. do personally appear before his Majesty's Justices of \* Gaol-Delivery, at the next General Assizes, to be held for the within-named County of S. and do then and there prefer, or cause to be preferred, a Bill of Indictment against J. C. for the Matters wherewith he is charged, before C. D. and E. F. his Majesty's Justices within-named; and do also then and there give Evidence concerning the same, as well to the Jurors as shall enquire thereof, on Behalf of our Sovereign Lord the King, as also to the Jurors who shall pass upon Trial of the said R. G. for the same; then this Recognizance to be void or, &c.

\* If at the Sessions, then instead of Gaol-Delivery, say Sessions of the Peace.

If it be only to give Evidence, then after then and there, and give such Evidence as he knoweth against R. G. concerning the Matters wherewith he is charged, as well to the Jurors, &c.

The Condition may be on the Back of the Recognizance, or subscribed underneath, or contained within the Recognizance.

**Recusants.**



## Recusants.

**I**N the 24th Year of *H. 8.* all Appeals to the Court of *Rome* were taken away by Act of Parliament, and the next Year it was appointed that Convocations should be assembled by his Writ, and that no Canons or Constitutions should be executed, which were contrary to his Prerogative, or to the Laws of the Land.

The Method of Restoring the King's Supremacy, and suppressing the Monasteries.

In the 26 *H. 8.* an Act passed to restrain the Payment of first Fruits to the Court of *Rome*, and giving them to the King.

In the same Year an Act passed prohibiting Investitures of Archbishops or Bishops by the Pope, and that upon a Vacancy the King should send his Letters Missive to the Prior or Convent, Dean or Chapter, to chuse another.

In the same Year, all Licences and Dispensations from *Rome* were prohibited, under Pain of *Premunire*; and that Religious Houses should be under the Visitation of the King, by Commissioners to be appointed under the Great Seal.

In the 26th Year of *H. 8.* he was by his Parliament declared Supreme Head of the Church.

In the 27th Year of his Reign all the lesser Monasteries, under the Revenue of 200*l.* per Ann. and under the Number of twelve Persons, were by Act of Parliament given to the King.

And several other Religious Houses having made Surrenders to the King, in the 31 *H. 8.* all the rest of those Houses were given to the King. And Anno 32 *H. 8.* the Lands of the Hospitallers of *St. John of Jerusalem* were given to him also.

And in Anno 37 *H. 8.* all the rest of the Convents and Chantries, &c. were given to the King, his Heirs, and Successors, by Act of Parliament.

Thus in the Compass of a few Years, the Power and Authority of the See of *Rome* was expelled this Kingdom; and to prevent its Return, as well for the suppressing several other Sectaries, several Laws have been from Time to Time made; the Chief of which are these which follow, viz.

1 *Eliz. c. 1.* & 2. 5 *Eliz. c. 1.* 8 *Eliz. c. 1.* 13 *Eliz. c. 1.* & c. 2. 23 *Eliz. c. 1.* 27 *Eliz. c. 2.* 29 c. 6. 35 *Eliz. c. 1.*

## Recusants.

c. 1, & c. 2. 1 *Fac.* 1. c. 4. 3 *Fac.* 1. c. 4, & c. 3. 7  
*Fac.* 1. c. 2, & c. 6. 3 C. 1. c. 2. 16 *Car.* 2. c. 4. 25 *Car.*  
 2. c. 2. 30 *Car.* 2. c. 1. 1 *W. & M.* c. 9, & c. 15, & c. 17,  
 & c. 26. 11 & 12 *W.* 3. c. 4. 12 *Ann.* c. 14. 1 *Geo.* 1. c. 55.  
 3 *Geo.* 1. c. 18. 9 *Geo.* 1. c. 18. 10 *Geo.* 1. c. 4.

The Substance of all which I shall run through in  
 Alphabetical Order : And first of

*Abjuration.*

**A** Recusant Convict above sixteen, must go to his  
 Place of Abode, and not remove five Miles  
 without Licence, or else, not being a Feme Covert,  
 and not having Lands worth 30 Marks *per Ann.* or  
 Goods worth 40*l.* and not making the Submission  
 mentioned in the Statute, being required by a Justice  
 of the Peace, must abjure the Realm before two  
 Justices, &c. by 35 *Eliz.* c. 2.

Not departing within the Time limited by the Justi-  
 ces, or returning without the King's Licence, is Fe-  
 lony without Clergy, *Ibid.*

*Abode.*

**I**F he does not go to his Home, and does remove  
 above five Miles without Licence, he forfeits his  
 Goods for ever, and his Lands during Life, though  
 Copyhold; but in this last Case, the Lord of the  
 Manor, if no Recusant or Trustee for him, shall  
 have the Forfeiture; if the Lord be a Recusant, the  
 King shall have it. *Ibid.*

If no Abode, must go to the Place of his Birth, or  
 where his Parents live; and within twenty Days, give  
 his Name to the Minister or Constable, &c. who is to  
 enter it in a Book, and certify it to next Sessions. *Ibid.*

But he may travel further with Licence from the  
 four next Justices, under their Hands and Seals, with  
 the Assent of the Bishop, or Deputy Lieutenant, first  
 making Oath of the true Reason of his Journey, by

3 *Fac.* 1. c. 1.

*Absolve.*

## Absolve.

**T**O Absolve or be Absolved by Bulls from the B. of Rome, is High Treason, and Accessories before the Fact, are Guilty of the same Offence, by 13 *Eliz. c. 2.* And by 23 *Eliz. c. 1.* the bare Pretending to have Power to absolve any within the King's Dominions from their natural Obedience, &c. is High Treason.

## Advowson.

**S**HALL not be granted by a Popish Recusant Convict, whilst under Conviction. 3 *Fac. 1. c. 5.*

And if such Recusant grant the Advowson for Years to a Friend in Trust, the Grant is void.

Every Popish Recusant Convict, by 3 *Fac. 1. c. 5.* whose Name, Surname, and usual Place of Abode is certified and recorded at the general Quarter Sessions, as disabled by refusing or neglecting to repeat and subscribe the Declaration in Stat. 30 *Car. 2. c. 1.* when tendred by two Justices of Peace, or forbearing to appear before them, on Notice given or left at the usual Place of his Abode, by one who hath Authority so to do, by Warrant under the Hands and Seals of the said two Justices, shall be disabled to grant an Advowson, by 1 *W. & M. c. 26.*

Person seized in Trust for such Offender, shall be likewise disabled to make such Grant. 1 *W. & M. cap. 26.*

Trustee or Mortgagee, presenting or causing to be presented to any living, the Trust whereof shall be for a Recusant Convict, or disabled as aforesaid, without giving Notice in Writing to the Chancellors of Oxford or Cambridge, &c. within three Months after the Avoidance, forfeits 500*l.* to the respective Chancellors. 1 *W. & M. c. 20.*

By 12 *Ann. c. 14.* Every Papist or Child, not being a Protestant, under twenty-one; and every Mortgagee, Trustee, &c. for any such Papist or Child, is disabled and incapable to present to any Benefice, &c. and every such Presentation shall be void, and the Chancellors and Scholars of Oxford and Cambridge, shall have the Presentation. &c.

And



And as often as any Presentation shall be brought to an Archbishop, Bishop, &c. from any whom he shall suspect to be a Papist, or Trustee for any profest Papist, the Bishop may tender him, if present, the Declaration against Transubstantiation of 25 Car. 2. c. — to be subscribed; and if absent, he may by Notice in Writing, to be left at the Abode of such Person, convene him to appear before him or his Official, &c. and if he refuse to make such Declaration, or does not appear, then the Presentation shall be void, and the Bishop shall within ten Days give a Certificate thereof to the Vice-Chancellor of that University to whom such Presentation would of Right belong, if such Person so offending had been a Popish Recusant Convict; and the Vice-Chancellor and Scholars of such University, shall present a Person qualified to such Benefice; and the Presentation for that Turn only, is thereby vested in them for that Purpose.

And the Chancellor and Scholars of the said University, may exhibit their Bills in Equity, for the Discovery of fraudulent Trusts in such Cases.

### *Agnus Dei.*

**B** Ringing an *Agnus Dei* into this Realm, or offering it to any Person to be used, both he and the Receiver incurs a *Premunire*, by 13 Eliz. c. 2.

### *Armour.*

**A** Armour of Popish Recusant Convict, shall be taken from him, by Warrant of four Justices of the County, &c. at general Sessions, &c. and kept where they think fit, and shewed at every Muster.

Refusing to deliver them forfeits them to the King, and by Warrant from one Justice, &c. may be committed for three Months. 7 Jac. 1. c. 6.

No Papist or reputed Papist, refusing or neglecting to subscribe the Declaration of 30 Car. 2. c. 1. shall keep any Arms, Weapons, Gunpowder, or Ammunition, other than such which shall be allowed him by Order of Sessions, for the Defence of his House and Person.

Two Justices, &c. may by Warrant, give Power to Persons in the Day-Time to search for Arms, with the Assistance

Assistance of the Constable, &c. in the Possession of any reputed Papist, and seize them to the Use of the King, and must deliver them the next Quarter-Sessions in open Court.

Papist, &c. not discovering his Arms to some Justice of Peace, within ten Days after Refusal, or not subscribing the Declaration, or hindring Persons authorised to search, shall be committed by Warrant from two Justices, &c. for three Months, without Bail, and shall forfeit the Arms, and pay treble the Value to the Use of the King, to be appointed by the next Quarter-Sessions.

Persons concealing them, or hindring the Search, may be committed, (*ut prius*) forfeit treble the Value.

Persons discovering Arms, &c. so as they may be seized, Sessions shall allow the full Value of the Arms, being there delivered, to be assessed by Justices in Sessions, and be levied by Distress and Sale of Goods of the Offender. 1 W. & M. c. 26.

## Beads.

**B** Ringing them over, or offering them to any Person to be used, both he and the Receiver, incur a *Premunire*.

But if Person to whom offered, apprehends the Offender, and brings him before a Justice of Peace, or acquaints him with his Name, within three Days after the Offence, or delivers the Beads the next Day after Receipt, to a Justice, he shall not incur the Penalty of 13 Eliz. c. 2.

## Books.

**S**elling, Printing or Importing any superstitious Books, forfeits 40 s. per Book, between the King, Prosecutor, and Poor, &c. 3 Jac. I. c. 5.

Two Justices, &c. may search Houses, &c. for such Books and Relicks, and burn them; but such which are of Value must be defaced in open Sessions, and returned. 1 Jac. I. c. 6.

## Bulls.

## Bulls.

**T**O obtain Bulls of Absolution from Rome, is High Treason, or to comfort and maintain those who obtain them, is a *Præmunire*. 13 Eliz. c. 2. Dyer. 365.

About seven Years after the making this Statute, one was indicted for aiding another, knowing him to be a Maintainer of the Jurisdiction of the See of Rome, *contra formam Statut. præd.*, but notwithstanding this Conclusion, the Indictment was quashed, because it did not set forth that he aided the Person to the Intent to set forth, uphold, or allow the Power of the See of Rome.

## Burials.

**E**VERY Popish Recusant, must be buried in Church, or Church-yard, according to the Ecclesiastical Laws, or the Executor or Administrator, forfeits 20*l.* 3 Jac. 1. c. 5.

*Catechisms.* See Books; the same Penalty.

## Children of Recusants.

**M**UST within a Month after their Birth be Baptized by a lawful Minister, or the Parent forfeits a 100*l.* if he outlive a Month; if not, then the Mother to pay the Forfeiture, to be divided between King, Prosecutor, and Poor. 3 Jac. 1. c. 5.

Protestant Children of Popish Parents not allowing them a fitting Maintenance suitable to the Ability of such Parents, shall have such Allowance as the Lord Chancellor, &c. shall order. 11 & 12 W. 3. c. 4.

Children shall not be sent beyond Sea, without Licence from the King, or six of his Privy Council, whereof the principal Secretary of State to be one; and the Person sent is made incapable of enjoying his Lands, by Descent or Grant, until (being of the Age of Eighteen Years) he take the Oath of Allegiance, before some Justice of Peace of the County where his Parents do or did dwell; in the mean time his next of



of kin (not being Popish Recusants) shall have his Lands and Goods.

He that goes out of the Kingdom, forfeits 100*l.* between the King, Prosecutor, and Poor. 3 *Fac.* 1. c. 5.

He who enjoys the Lands of such a Child, &c. shall be accountable to him when he conforms. *Ibid.*

Going Beyond Sea, or being sent thither to be brought up in the Popish Religion, and being convicted thereof, shall be disabled to sue, or to be Executor or Administrator, or capable of a Legacy or Gift, or to bear any Office, and forfeits all his Goods and Chattels, as also his Lands and Offices during his Life.

But conforming within six Weeks after his Return, shall not be punished. 3 C. 1. c. 2.

## Conforming.

**C**onforming before Judgment, except in Cases of Treason and Misprision, shall be discharged of Penalties. 21 *Eliz.* c. 1.

The Son and Heir, being no Recusant, or conforming and taking the Oaths, his Lands are discharged from the Penalty incurred by his Ancestor, 1 *Fac.* 1. c. 4. but not conforming after Sixteen, his Lands are not discharged, till he conform.

Conforming after Conviction, must be within a Year afterwards; and every Year he must receive the Sacrament, or forfeit 20*l.* for the first Year: For the second Year 40*l.* and 60*l.* for every Default afterwards; and if once he hath received, and afterwards makes Default, he forfeits 60*l.* between the King, and Prosecutor. 3 *Fac.* 1. c. 4. *Cro. Fac.* 365.

## Court.

**R**ecusant Convict coming to Court without the King's Leave, forfeits 100*l.* between the King and Prosecutor, and must not come within ten Miles of London. 3 *Fac.* 1. c. 5.

*Crosses.* See *Beads.*

*Declaration.*

**T**WO Justices may tender the Declaration mentioned in the A<sup>d</sup> 30 Car. 2. to any Papist; and if he doth not make and subscribe it, or shall refuse to appear upon Notice, shall be liable to the Penalties in the A<sup>d</sup> 1 W. & M. c. 2.

*Excommunicated.*

**P**opish Recusant shall be reputed duly excommunicated; and if he sue any Person, the Defendant may plead it in Disability; but he must aver the Plaintiff to be *Papalis Recusans*. 3 Leo. 11.

*Executor.*

**P**opish Recusant shall not be Executor or Administrator, or Guardian, but the next of Kin, to whom the Land cannot descend, shall have the Guardianship. 3 Jac. 1. c. 5.

*Feme Covert.*

**T**HE Husband is not chargeable with the Forfeiture of the Wife for not receiving the Sacrament, as enjoined by 3 Jac. 1. c. 4. nor the Wife after his Death. 3 Jac. 1. c. 4.

Feme Covert being a Popish Recusant Convict, and her Husband none, she not conforming by the Space of one whole Year after his Death, forfeits two Thirds of her Jointure or Dower, and shall not be Executrix or Administratrix to her Husband, and shall be taken as a Person excommunicated. 3 Jac. 1. c. 5.

Feme Covert not conforming within three Months after Conviction, may be committed by two Justices till she conforms, unless her Husband shall pay to the King 10 l. per Month, or a third Part of his Lands. 7 Jac. 1. c. 6. She shall not abjure the Kingdom. 35 Eliz. c. 2.

*Guardian.* See *Executor*.

*Horses.*

*Idols.*

**N**O Papist, or reputed Papist, refusing or making Default to sign the Declaration of 30 Car. 2. c. 1. shall keep in his Possession, or to his Use, any Horse worth above 5 l. to be sold; and any two Justices of the Peace may, from Time to Time, by Warrant under their Hands and Seals, with the Assistance of the Constable, or other Peace-Officer, authorize any Persons to search for and seize such Horses as aforesaid to his Majesty's Use. Persons concealing, or aiding in the Concealing any such Horses, shall be committed by Warrant as aforesaid, for three Months, without Bail or Mainprize, and shall forfeit double the Value of such Horses, to be settled as aforesaid.

*Jesuits. See Priests.*

*Indictment.*

**I**ndictment against Jesuit, Priest, or other Ecclesiastical Person, is good, tho' he is not in the Kingdom; which Indictment being found, and he not returning after Proclamation, &c. it is as good as if a Verdict had passed against him. 27 Eliz. c. 2.

*Jurisdiction Ecclesiastical.*

**J**urisdiction Ecclesiastical is annexed to the Crown; and he who maintains the Power of any Foreign Prelate, &c. forfeits his Goods and Chattels; and if not worth 20 l. at the Time of his Conviction, shall be committed for a Year without Bail.

Second Offence is a *Præmunire*.

Third Offence is High Treason. 1 Eliz. c. 2.

The two first of these Offences are inquirable by Justices in Sessions within a Year and a Day after they are committed. 3 Eliz. c. 1.

Maintaining the Jurisdiction of the Pope is a *Præmunire*, and Justices in Sessions may hear and determine it. 3 Eliz. c. 1.

*Q.*

*One*



One of the King's Subjects was indicted for importing and selling Books, affirming the Jurisdiction of the See of Rome. The Importer was guilty within the Statute, but not the Buyer, tho' he knew what was contained in the Books: But if a Man buy such Books, and reads them, and, in Dispute, maintains the Books to be good, this is an Affirming the Jurisdiction, &c.

### Justice of Peace.

**J**ustice of Peace must acquaint a Privy Counsellor within fourteen Days after he shall have Notice of the Offender's bringing hither Crosses, Beads, &c. or offering them to be used, or incurs a *Premunire*. 13 Eliz. c. 2. And not acquainting a Privy Counsellor within twenty eight Days after a Jesuit or Priest, &c. shall be discovered to him, forfeits 200 Marks. 23 Eliz. c. 2.

*Ladies Psalters, Legends, Manuals.* See Books.

### Marriage.

**P**opish Recusant convicted of marrying otherwise than according to the Form of the Church of England, shall not be Tenant by the Courtesy; and if there is no Land of which he can be Tenant, &c. shall forfeit 100 l. to the King and Prosecutor; if a Woman, she shall not have her Dower or Jointure, or Widow's Estate. 3 Jac. 1. c. 2.

### Mass.

See Indictment for this Offence. Dyer 203 a, 331 b. Three Indictments against a Man for hearing three Masses on several Days; he shall pay but 100 Marks, and not so many for every Offence. Dyer 281.

**S**aying Mass forfeits 200 Marks, hearing it 100 Marks, and may be committed for a Year, not to be enlarged till the Fine is paid; one Third of the Forfeiture is to the King, another to the Prosecutor, the other to the Poor, &c.

Prosecution may be before Justices in Sessions; but it must be within a Year and a Day after the Offence. 35 Eliz. c. 1.

Discovering a Priest or Persons at Mass, within three Days after the Offence, so as any be taken and convicted

convicted, or attainted, shall have the third Part of the Forfeiture. 35 Eliz. c. 5.

*Missals, Primers. See Books.*

**Papists.**

**BY** 11 & 12 W. 3. a Person educated in the Popish Religion, and not taking the Oaths of Allegiance, &c. made 30 Car. 2. c. 1. within six Months after eighteen Years of Age, he shall be incapable (as to himself only) to inherit or take Lands by Devise, Descent or Limitation, and that during his Life, or until he shall take the Oaths, the next of Kin, who shall be a Protestant, shall enjoy the Lands, and not be accountable for the Profits, but for Waste only.

Every Papist is made incapable of purchasing Lands, &c. either in his own Name, or in the Name of any Person, to his Use, or in Trust for him. And all Estates, Terms, and other Interests or Profits whatsoever, out of Lands to or for the Use of, or in Trust for such Person, shall be void.

By 1 W. & M. c. 9. Papists, or reputed Papists, are to be removed ten Miles from London, and the Lord-Mayor and Justices have Power to convene them before them, &c.

Papists, or Persons marrying Papists, shall be incapacitated from inheriting the Crown of Great Britain, by 5 Ann. c. 8.

**Pardon.**

**T**HE King pardoned the Conviction: The Question was, Whether the Person pardoned should be disabled during the Time he remains a Recusant, but doth not say Convict? But it was adjudged, that the Word Convict should go thro' the whole Sentence. 3 Lev. 333.

## Priest.

**J**esuits, Seminary Priests, &c. and other Ecclesiastical Persons born within the King's Dominions, and made such by the Bishop of Rome, coming in or remaining in the said Dominions, are guilty of Treason; and the Receivers, Aiders and Maintainers of them, knowing them to be such, Felons: 27 Eliz. c. 2.

Any knowing a Priest or Jesuit to be here, and not within twelve Days afterwards discovering him, to a Justice of Peace, shall be committed and fined. 27 Eliz. c. 2.

A Jesuit must make such Submission as is mentioned in the Act of 35 Eliz. c. 2; and if he refuse to answer, shall be committed till he comply. But making Confession (as in the Act) shall be discharged; but relapsing afterwards, takes no Benefit of that Law. 35 Eliz. c. 2.

The Person who, within three Days after Notice of the Offence, shall discover to a Justice of Peace a Recusant, or him who doth entertain a Popish Priest, Jesuit, &c. shall be pardoned, and shall have a third Part of the Forfeiture, so that the Whole forfeited doth not exceed 100*l*. and if above that Sum, then shall have 50*l*. which after Conviction of the Offender by a Certificate from the Court where he was tried, directed to the Sheriff or other Officer, shall be paid out of the Money levied.

11 & 12 W. 3.  
c. 4.

If any Person shall take a Popish Bishop, Jesuit, or Priest, and prosecute him to Conviction, then the Person taking him, shall have a Certificate under the Hand of the Judge or Justices, before whom the Party is convicted, certifying such Conviction, and that he was taken by the Party, &c.

This Certificate must be carried to the Sheriff of the County, who must pay the Party taking 100*l*. and the Judge must settle any Dispute happening about the Right to the Reward.

Sheriff not paying, forfeits 200*l*. to be recovered in any Court of Record; and if the Sheriff die, or is removed, the succeeding Sheriff is to pay it.

If any Popish Bishop, Priest or Jesuit, shall be convicted of saying Mass, &c. or any Papist shall keep School, &c. and be convicted, &c. he shall be adjudged



judged to perpetual Imprisonment, in such Place where the King, by the Advice of his Council, shall think fit.

But foreign Priests, nor Natives, or naturalized, officiating in Dwelling-Houses of foreign Ministers, are exempted, so as they enter their Names in the Office of the Principal Secretary of State, and the Place of their Birth, and to whom they belong. 11 & 12 W. 3. c. 4.

*Reconciled. See Absolved.*

**B**Y Stat. 3. Ja. 1. c. 4. to move any one to promise Obedience to the See of Rome, or other Prince, is High Treason in the Mover, and him that promiseth Obedience.

*Recusant Convict.*

**R**ecusant Convict must not remove five Miles from his Abode. Vid. *Abode*.

Must not come to Court. Vid. *Court*.

|                              |   |             |   |                   |
|------------------------------|---|-------------|---|-------------------|
| Must not practise the Art of | { | Apothecary, | { | Or be an Officer  |
|                              |   | Civil Law,  |   | in any Court, or  |
|                              |   | Common Law, |   | among Soldiers,   |
|                              |   | Physick;    |   | or in a Castle,   |
|                              |   |             |   | Fortress or Ship. |

The Penalty is 100 l. to be divided between the King and Prosecutor. 3 Ja. 1. c. 5.

*Registering Lands, &c.*

**A** Papist having an Estate in Lands, &c. or one educated in the Popish Religion, or whose Parents shall be Papists, and he of full Age, and not taking the Oaths appointed by 1 Geo. 1. c. 35. and repeating and subscribing the Declaration in Stat. 30 Car. 2. c. 1. as that Act directs; or in Default thereof, he or his Trustee not registering his Name and Lands, &c. and not subscribing such Registry, either by himself in the Presence of two Justices in open Sessions,

or by some other Person authorised by Warrant of Attorney, under his Hand and Seal, attested by two Witnesses who must prove the Execution thereof on Oath, at the Quarter-Sessions, and two Justices then present, shall subscribe their Names, as Witnesses to such Entry; shall forfeit as follows, *viz.* The Fee-simple of his Lands not registred, or fraudulently registred, and the full Value of the Inheritance of the Lands, whereof he hath not the Fee-simple, two thirds to the Crown, and the other to any Protestant who will sue for it in any Court of Record at *Westminster*; and he may bring an Ejectment on his own Demise, or he may exhibit a Bill in Chancery, &c.

Persons Beyond Sea, registering within six Months after their Coming over, shall save the Penalties.

But if any Person, after Default or Fraud in registering, and before Conviction or Ejectment, or Suit brought, for such forfeited Lands, shall for a valuable Consideration, really convey, lease, or mortgage them, the Purchaser, Lessee, or Mortgagee, shall not be prejudiced, but such Seller shall forfeit the Value of the Inheritance, to be distributed and recovered as aforesaid.

Persons in the *East or West Indies*, or *America*, shall have twelve Months longer than the six Months aforesaid.

The Clerk of the Peace shall keep a Parchment-Book to register the Names of those registering, and he shall have 3*d.* for every two hundred Words, and he must keep Alphabetical Tables of the Surnames of those registering, and must file the Warrants of Attorney, and enter them on Record, and shall have 3*d.* for entering two hundred Words, and 4*d.* for a Search, and shall, if desired, give Copies of such Registries subscribed by himself, or Deputy, taking 3*d.* for every two hundred Words of such Copy: The Clerk of the Peace neglecting or refusing, &c. and being thereof Convicted, forfeits his Office. 1 Geo. 1. c. 35. and by 10 Geo. 1. c. 4. 1007. besides.

By 3 Geo. 1. c. 18. the Time of Registering Estates is enlarged to the 20th of *October* 1717.

No Action shall be brought for any Penalty or Forfeiture for neglecting or fraudulently registering, after two Years after the Offence committed.

3 Geo. 1. c. 18. No Sale of Lands, for a valuable Consideration, shall be impeached, which shall be made to a Protestant Purchaser, by any Person in the Possession thereof, for any Disability incurred by the Person

joining in such Sale, or by any Person from whom the Title is derived, unless before such Sale, the Person who is to take Advantage of such Disability, shall have recovered the Lands, or have given Notice of his Claim to the Purchaser; or shall have entred his Claim in open Court in the Quarter-Sessions of that County where the Lands lie, and hath *bona fide*, pursued his Remedy in a proper Court of Justice, to recover the same.

No Lands shall pass from any Papist, either by Deed or Will, unless the Deed shall within six Months after its Date, and the Will within six Months after the Death of the Testator, be enrolled in some Court at *Westminster*, or else by the *Custos Rotulorum* of the County where the Lands lie, and two Justices, and the Clerk of the Peace, or two of them at least, whereof the Clerk of the Peace to be one. 3 Geo. 1. c. 18.

By 10 Geo. 1. c. 4. it is enacted and declared that no Woman shall be obliged to take the Oaths, nor to register her Name, or real Estate. 10 Geo. 1. c. 4.

Persons not taking the Oaths, and neglecting to register, &c. shall forfeit the full Value of one Year's Rents, and Profits of all Lands, &c. not registred; two Thirds to the Crown, and one Third to the Prosecutor; and shall not lose the Fee-Simple or Inheritance of any Estate, or Interest in Lands, &c. as by the Act aforesaid was enjoined.

If any Officer shall knowingly sign a false Certificate of any Person's having taken the Oaths, &c. or if any Person shall forge, raze, alter, or counterfeit, any such Certificate, or shall personate any other Person, or procure it to be done, every such Officer shall forfeit his Place, and 100*l.* Moiety to the Crown, the other to the Prosecutor, and liable to the Penalties of wilful Perjury.

All Leases made by Papists to any Protestant, whereon the full yearly Value thereof, or the ancient or most accustomed yearly Rent or more, have been or shall be reserved, shall be as good and effectual in the Law, though the same have not been or shall not be hereafter enrolled, as the same would have been, if the Acts of Parliament for registering, &c. had never been made. 10 Geo. 1. c. 4.

**Rolaries.** See Books.

**Sacrament.** See Conforming.

*Semina-*



## Seminaries, and sending Beyond Sea.

**S**ending Relief to any brought up there, not in Orders, and not returning within six Months after Proclamation made for that Purpose, and submitting themselves to the King within two Days after their Return, either before the Bishop of the Diocese, &c. or two Justices, &c. and taking the Oath of Supremacy, &c. are Traitors by 27 Eliz. c. 4.

Sending Persons Beyond Sea to be instructed in the Popish Religion forfeits 100 l. and the Persons sent are made incapable to take any Grant of Inheritance, either to themselves, or to any in Trust for them. The Forfeiture is to be divided between the King and Prosecutor. 1 Jac. 1. c. 4.

\* But per 11  
& 12 W. 3. c.  
4. the Forfeiture is to the Discoverer and the Person convicting.

In an Indictment upon 1 Eliz. c. 2. it need not be averred that the Offender is an Inhabitant, but it shall come on the other side. *Mannock's Case*, Mich. 3 Jac. 1.

The Words in 23 Eliz. c. 1. (being thereof convicted) shall be intended in the same Action. *Doctor Foster's Case*.

The Word *existens*, viz. *etatis 16 annorum*, in an Indictment upon 23 Eliz. c. 2. shall go to the Time of the Offence, not Indictment. *Talbot's Case*, *Moore* 606.

Feme Coverts  
are within  
1 Eliz. c. 2.

Feme Coverts are within 1 Eliz. c. 2. and 23 Eliz. c. 1. as to the Penalties for Absence from Church; and Information lies against the Husband. *Law's Case*, B. 13 Jac. 1.

Going to Church every Sunday, must be as well to Evening, as Morning Prayers.

Which are Holidays, *vid.* 5 & 6 Edw. 6. c. 3. and the Rubrick confirmed by 14 Car. 2. c. 4.

Wilfully absenting themselves from Church twelve Months, contrary to 1 Eliz. c. 2. and convicted, being Sixteen Years of Age, are to be bound to the Good Behaviour, upon Certificate of one Justice of Peace to B. R. 1 Eliz. c. 2.

Every Justice of Peace may give Notice to any Person to forbear to receive or keep such as shall obstinately refuse to come to the Church by the Space of a Month together. 35 Eliz. c. 1.

Offences upon any Statute for not going to Church or receiving the Sacrament, may be heard and determined by Justices of Peace at their Quarter-Sessions, as Justices of Assize might before 3 Jac. 1. c. 4.

Convictions of Recusancy shall be in B. R. Affize, or Gaol-Delivery, and not elsewhere, from whence they shall be estraited into the Exchequer the next Term. 29 E. c. 6. But see *Hob.* 204. That Debt or Information lies in the Common Pleas, Informations in the B. R. Persons convicted shall pay their Forfeitures into the Exchequer, twice a Year, without further Conviction, or else Process shall issue to seize their Goods, and two Parts of their Lands. 39 E. c. 6.

Convictions of Recusancy shall be in B. R. Affize, or Gaol-Delivery.

If any Person shall relieve, keep, &c. in his House any Servant, Sojourner, &c. who shall forbear Divine Service for a Month together, &c. shall forfeit 20*l.* *per mensem*, but he may keep his Father, Mother, &c.

A Recusant in pleading that he hath a Licence from four Justices to travel, &c. must shew that he hath taken the Oath, that the Cause of it is true, and that it was granted with the Assent of the Bishop, or Lieutenant, &c.

And if the same Person be Justice and Lieutenant, it will not serve. 2 Cro. 350. *Adaxfield's Case*.

The Penalty of 12*d.* a Sunday, by 1 E. c. 2. and 3 Jac. 1. c. 4. and of 20*l.* *per mensem*, by 23 E. c. 1. shall be both paid.

The Stat. 1 El. c. 2. extends to Holidays as well as Sundays; but the Stat. of 23 E. c. 1. & 3 Jac. 1. c. 4. extend only to Sundays. *Dalt.* 272.

The King may refuse the 20*l.* *per mensem*, and take to the two Parts of the Lands, and all the Goods, &c. and the King shall have two Parts only of the Recusant's Estate, to satisfy the 20*l.* *per mensem*, but not the third Part, either in the Hand of the Ancestor or Heir; but after the Death of the Ancestor, two Parts shall remain liable to the Arrears of 20*l.* *per mensem*.

King may refuse 20*l.* *per mensem*, and take to the Lands.

An Indictment for perswading and endeavouring to withdraw one from his Allegiance.

Jac. 1. c. 4.

Essex. ff. **J** M B', &c. quod A. B. de L. in Com' p'edict' Gen' nono die Septembris Anno Regni, &c. apud L. p'ed' in Com' p'edict' voluntarie & p'oditozie conatus est & p'acturabit absolvere persuadere & seducere quendam T. P. de L. p'edict' in Comit' p'edict' subditum dicti Domini Regis a naturali obedientia quam idem T. P. erga dictum Dominum Regem gerere debet ad obedientiam p'tense Duchozitatis sedis Romane dicens eidem T. P. hec Anglicana verba sequen' viz. (here recite the Words) contra pacem dicti Domini Regis coronam & dignitatem suas & contra formam statuti in hujusmodi casu edit' & p'obis', &c.

Against one withdrawn from his Allegiance, &c.

1 Jac. 1. c. 4.

Sussex. ff. **J** M B', &c. quod J. B. nuper de C. in Com' p'edict' Gen' natus apud D. in Com' p'ed' Deum p're oculis non habens sed instigatione diaboli seductus nono die Augusti Anno Regni, &c. debitam ligeantiam suam erga dictum Dominum Regem minime ponderans apud D. p'ed' in Com' p'ed' a naturali obedientia sua quam erga dictum Dominum Regem gerere debuit voluntarie & p'oditozie absolut' reconciliat' & seductus fuit (Anglice withdrawn) contra debitam ligeantiam suam & in contemptum dict' Dom' Reg' & legum suarum & contra pacem dict' Dom' Reg' coronam & dignitatem suas necnon contra formam statuti, &c.

Judgment  
High Treason.

A War.



A Warrant to make Search after, and seize Arms, in the Possession of Papists.

To C. D. Gent. and to the Constables of the Parish of S. in the said County.

Essex. ff. **F**Orasmuch as we are given to understand by the Bearer hereof, that divers Quantities of Arms, Weapons, Gunpowder, and Ammunition are concealed in the Houses, Outhouses, and other Places of several Papists, reputed Papists, or other Persons within your said Parish, that are disaffected to the Government, whereof the said Bearer will more particularly inform you: These are therefore (in Majesty's Name) to will and require you, that you do forthwith, upon Receipt hereof, make diligent Search, in the Day-Time, in all and every the Houses, Outhouses, and other Places of all Papists, reputed Papists, or other Persons whom you shall suspect, or be informed to be disaffected to the Government, and to have any Arms, Weapons, Gunpowder, or Ammunition; and if upon your said Search, you shall find any such, to seize the same to his Majesty's Use, and bring them unto us, or some other of his Majesty's Justices of the Peace for this County, to the Intent they may be delivered in open Court, at the next general Quarter Sessions of the Peace, for the said County, to his Majesty's Use: Whereof fail not, &c. Given under our Hands and Seals, &c.

Rescous.

## Rescous.

What Rescous  
is.

**T**HIS is the Taking away or Procuring the Escape of a Prisoner who is imprisoned by lawful Authority. And if the Prisoner be detained for Felony, then is it Felony in the Rescuer.

Rescous of a Felon, before Arrest, is no Felony, otherwise after Arrest. *Bamb. 230.*

Rescuing a Prisoner going to the Gallows, is Felony.

If a Stranger take one out of Prison with the Prisoner's Assent, if he be in for Felony, it is Felony, by the Common Law, in the Rescuer, and he is a Principal, by the Statute *de Frangentibus prisonam.* 1 Cro. 38.

To rescue a Felon is Felony, if he be out by a Stranger, it is Felony, although the Felon, though he be not indicted. 1 Cro. 35. N. 3.

If the Person rescued hath committed Felony, and was arrested for it, then Rescuing him is Felony; but if he was not arrested, then the Rescuing or hindering any Person to apprehend him, is a Misdemeanor, but not Felony.

Rescuer not to be arraigned till Principal is attained. But the Rescuer shall not be arraigned of the Felony till the Principal is attained; and if the Principal die, before Attainder, the Felony is discharged, but the Rescuer shall be indicted, fined, and committed, for rescuing him. *Hale's Pl. Coron. 116. Sid. 352.*

Indictment  
quashed.

Indictment for a Rescous was *quod arrestavit*, without saying *& in custodia sua habuit*, and for this Reason it was quashed, though in the same Indictment it was alleged that the Defendant rescued him out of the Possession of the Bailiff. *Dyer 352. b.*

Rescuer of a Prisoner, taken in a pretended privileged Place, forfeits to the Plaintiff 500*l.* and if not paid within a Month after Recovery, then to be transported for seven Years; and if he return within that Time, it is Felony, without Benefit of Clergy. 8 & 9 W. 3. c. 27. 9 Geo. 1. c. 29.

Indict.

Indictment for rescuing a Felon from a Constable.

Essex. ff. **J** W. R., et. quod cum quidam A. B. de L. in Com' pzed' Gen' decimo die Augusti existens in Justiciar' dicti D'ni Regis in dict' Com' Essex ad pacem in eodem Com' conservand' assign' necnon ad diversas felonias transgr. & alia malefacta in eodem Com' perpetrat' audiend' & terminand' assign' pzed' decimo die Augusti Anno supradicto apud L. pzed' in Com' pzed' quoddam Warrantum sibi preceptum in scriptis fecit & cumdam D. F. de K. in Com' pzed' Beoman adtunc Constabular' de Wardchia de K. pzed' in Com' pzed' direxit & deliberabit per quod quidem warrantu' prefat' D. F. sic ut prefertur constabular' existens preceptu' fuit quod caperet corpus cususdam L. L. de M. in Com' pzed' Gen' & prefat' L. L. coram pzed' A. B. vel uno alio Justiciar' pacis pro Com' pzed' duceret & haberet ad examinand' prefat' L. L. pro felonis & captione quinq' vaccarum de bonis & catallis cususdam R. C. qui quidem D. F. constabular' pzed' postea scilicet pzed' undecimo die Septembris Anno supradicto apud K. pzed' in Com' pzed' virtute warranti pzed' eundem L. L. cepit & arrestitit pro causa pzed' & adtunc & ibid. eundem L. L. in custodia ipsius D. F. habuit Et quod quidem R. G. de K. pzed' in Com' pzed' Gen' sciens pzed' L. L. per D. F. constabular' pzed' sic ut prefertur fore arrestat' & in custodia sua esse postea scilicet pzed' decimo die Augusti Anno supradicto apud K. pzed' in Com' pzed' vi & armis, et. adtunc & ibidem eundem L. L. a custodia pzed' F. K. felonice cepit & recussit & ad locum quo voluit ire permisit in magnu' dicti D'ni Regis contemptu' & in malu' exemplum aliorum in huiusmodi casu delinquent' necnon contra pacem dicti D'ni Regis coron' & dignitat' suas.

Resti.



## Restitution of Stolen Goods.

**T**HE Owner of Goods stolen could not have Restitution upon an Indictment against the Felon, though he was freshly pursued, at the Common Law, because the Prosecution was at the Suit of the King, though he might upon an Appeal, because that was at his own Suit.

Owner to have  
his Goods  
again on Con-  
viction of the  
Felon, &c.

But by the Stat. of 21 H. 8. c. 11. this was remedied; for now if the Felon be found Guilty, or attainted at the Prosecution of the Party robbed, or Owner of the Goods, the Justices have Power to award Restitution of the Goods stolen.

A Man stole Cattel and sold them at C. in open Market, and presently after he was apprehended by the Sheriffs of C. and they seized the Money, and afterwards he was arraigned and hanged at the Prosecution of the Owner of the Cattle. Agreed by the Court that the Owner shall have Restitution of the Money. *Noy's Rep.* 298. *Harris's Case.* For though the Statute gives Power to the Justice to award Restitution, &c. of the Goods stolen, and though the Money in this Case was not stolen, yet because it did arise by stealing, it shall be within the Equity, though not in the very Words of the Statute; and it hath been held to extend to Executors or Administrators of the Party, though they are not mentioned in the Statute. *3 Inst.* 242.

Formerly in some Cases, there could be no Restitution; as where the Felon had sold the Goods in Market Over, though he were afterwards convicted, yet the Property was altered by the Sale; or if he had waved them, and escaped, and it was not known who he was, the Lord having seized, the Owner could not have Restitution, because the Felon could not be indicted or attainted.

Owner shall  
have his Goods,  
tho' sold in  
Market Over.

But the Practice hath been otherwise since 4 & 5 C. 1. for if the Criminal is convicted at the Prosecution of the Party who lost the Goods, he shall have Restitution, though they were sold in Market Over; and if the Party who bought them, pleads it to a Writ of Restitution brought, the other upon a Demurrer to such Plea, will have Judgment.

This

This Resolution tends to the Advancement of Justice. The Justice of  
 Rice, to make Men vigilant in prosecuting Offenders, it.  
 and it will discourage Persons from buying Goods for  
 a small Value in a Market, of such whom they have  
 Reason to suspect. *Kelynge* 48. Co. *Magna Charta*. 714.

*Vid. Kelynge's Rep.* 35. 48. and 50. where Restitution  
 of stoln Goods shall be awarded to the Prosecutor,  
 notwithstanding a Sale in Market Overt.

Also if the Felon shall be outlawed upon the In- So if the Fe-  
 dictment; by Means of the Party robbed, or Owner lon be out-  
 of the Goods stoln, he shall have Restitution of his lawed.  
 Goods, by a Writ of Restitution.

If a Thief rob, or steal Goods from three Men se-  
 verally, and he be indicted of the Robbing or Stealing  
 from one of them, and arraigned thereupon, in this  
 Case, though the other two would give Evidence  
 against the Offender, yet shall not they have Resti-  
 tution of their Goods, by the Meaning of that Sta-  
 tute; for the Felon is not attainted of any other Fe-  
 lony, saying of that whereof he was indicted.

But if he be indicted of all the three Robberies, of Where a Felon  
 Felonies severally, and arraigned upon one of them, is indicted of  
 and found Guilty by the Evidence given by one of three Robbe-  
 the Parties robbed, &c. yet shall he be after arraigned ries.  
 upon the other two Indictments, to the Intent he also  
 may be found Guilty by the Evidence of the other  
 two Persons robbed, that so they may have Restitu-  
 tion of their Goods stoln, according to the Meaning  
 of the said Statute.

And if a Man steal Goods at divers Times from Only the Pro-  
 several Men, and is after attainted at the Suit of one secutor shall  
 of them only, for the Goods stoln from him, but is have his Goods  
 not attainted at the Suit of the other, by this Attain- again.  
 der, the Felon shall forfeit to the King, not only his  
 own Goods, but also the Goods stoln from those others;  
 at whose Suit he was not attainted, though the Felon  
 had no Property, but only a Possession of those Goods;  
 and the Property of the Goods which remaineth in  
 the right Owner, in this Case is forfeited by the Own-  
 er to the King, for Default of the Owner pursuing the  
 Felon.

Also if there be divers Thieves, and but one of  
 them attainted, yet the Party robbed shall have Re-  
 stitution. *Dalt.* 543.

If any Goods, of what Nature soever they be, be  
 stoln, purloined, &c. and be sold, exchanged, or  
 pawned, to any Broker, &c. in London, Westminster,  
 Southwark, or within two Miles of London, the same

## Restitution of Stolen Goods.

shall alter no Property. And if a Broker, having received Goods, shall not, upon Request of the Owner, truly discover them, he shall forfeit double the Value thereof to the Owner, by Stat. 1. Jac. 1. c. 21.

Owner may  
take his Goods  
if not seized  
or waived.

If a Man hath Goods stolen from him, and knoweth not by whom, if the Felon waiveth the Goods, and the King's Officer, or Lord of the Manor seize them, the Party robbed shall have no Restitution, for that he cannot indict and attain the Felon. And yet if the Felon had not the Goods in his Possession at the Time when he fled, but had formerly left them elsewhere; viz. in his own House, or in the House or Custody of any other, or had hid them; then they are no waived Goods, nor forfeited, but the Owner may take them again wheresoever he findeth them, without any Restitution awarded. Co. 5. 109. Dalt. 344.

## Riot.

What is an  
unlawful As-  
sembly.

**A**N unlawful Assembly is where three or more do meet to do an unlawful Act against the Peace, as to pull down a House, &c. or to do a lawful Thing in an unlawful Manner, as to distrain for Rent, &c. with Force and Violence, but they do nothing.

What a Rout.

A Rout is when they move forward, after they are thus met, in a turbulent Way to effect it, but do not perform it.

A Riot is when they do not only meet and go on, but also perform it.

Must be three  
or more to  
make a Riot.

And to make a Riot, there must be three or more Persons: Secondly their Intent must be to do an unlawful Act, or a lawful Act with Violence, &c.

But this Offence may be committed, though some of the Company stand by and do nothing; for if they stand by and countenance it, it is as bad as if they did it; but if they come by chance and intend nothing, *contra.*

For as a Man may do an unlawful Thing, so as it may not be a Riot, so he may do a lawful Thing, so as to make a Riot.

The



The chief Statutes which relate to Riots, are 2 Ed. Statutes about  
3. c. 3. 13 H. 4. c. 7. 2 H. 5. c. 7. & 8. 19 H. 7. c. Riots.  
13. & 21 Jac. 1. c. 15. 1 Geo. 1. c. 6.

In Case of a Riot: 1. The Justices of Peace may proceed upon the Statute of *Northampton*: Or 2dly, The Party grieved may have a Commission out of the Chancery to enquire of it, and of the Neglect of the Justices of Peace in punishing it: Or 3dly, He may have a Writ out of the Chancery to enquire of it, and of the Neglect of the Justices of Peace in punishing it: Or 4thly, He may have a Writ out of the Chancery to command the Justices of Peace to execute the Stat. 13 H. 4. c. 7. But the ordinary Remedy is by Address to the Justices of Peace; every one of which must do his best to prevent and stay them in doing it; for one Justice of the Peace alone may do somewhat to prevent a Riot before it be done, and for the Stay of it, whilst it is in doing, though he can do but little when the Riot is done and over.

And therefore upon the first Notice of it, he ought to go to the Place, if he can conveniently, and he may take with him (especially if it be great) the *Posse Comitatus*, and suppress it: 2dly, If he find any of the Rioters, to take and imprison them, and bind them to the Good Behaviour: 3dly, If he cannot go, or stay when he is there himself, he may command his Servants to go or stay, and suppress it, and to bring the Rioters before him, to find Sureties for the Good Behaviour: 4thly, The Riot being done, the Justice of Peace can neither record it, make Enquiry, set a Fine, award Process, or meddle with it but as a Trespass, or upon the Statute of *Northampton*, if it be a Forcible Entry. And yet if a Justice of Peace, sitting judicially, see a Riot done before his Face, he may record this, and command the Party to be arrested; but if it be in another Place, the Party may traverse it: 5thly, Every Justice of Peace is to see the Statute of 13 H. 4. c. 7. executed; for though the two next Justices only are in Danger of the Fine of one hundred Pounds, yet all the rest may be punished. And in the Execution of the Statute he is to do in this wise; 1. Get the Assistance of the Sheriff, or any other Justice of Peace, if he can. 2. Go to the Place, if he can. 3. If he find any Rioters or unlawful Assembly, commit them to Gaol. 4. Compel them to give Sureties of the Peace or Good Behaviour. 5. Upon Refusal, to commit them. 6. Take away their Weapons. And further he cannot go till Inquiry, which

What two Ju-  
stices are to do  
on 13 H. 4.  
c. 7.

must be made by two Justices of Peace. And any two Justices of Peace may do this, and they must proceed upon the Statute of 13 H. 4. c. 7.

And by it they are to send for the Sheriff or his Under-Sheriff; for it cannot be done without one of them, if the Riot doth continue; for in this Case he is one of the Judges. And if they come not, he that does come, is excused; but the Inquiry after when it is past, may be by two Justices of Peace, without the Sheriff, save only as a Minister. And if any Justices of Peace do it, the two next are excused of the hundred Pounds. 2. They must likewise, as when one Justice doth it, go to the Place. 3. Take, if need be, the *Posse Comitatus*. 4. Arrest the Offenders, remove the Force, commit the Rioters, and take away their Weapons; and so they may do to all that are with them, and all that they meet coming from them in a riotous Manner; and if they resist, beat, wound, or kill them, but may not record a Riot done by them. 5. If the Rioters are escaped, they cannot arrest them, or award Process to arrest them at another Time or Place; but the Record must be sent into the K. B. there to be proceeded upon, but no Traverse lieth to this; yet they may send their Warrant to bind them to their Good Behaviour. 6. After Arrest, the Justices and Sheriff, must formally, in the Nature of an Inquisition, record the Riot in Writing, as the Case is; for if they commit, and do not record, they lose an hundred Pounds. And they must take care they do the Party no Wrong, for he cannot traverse it, but is remediless. 7. If another Riot be made upon or before them, they are to record that also. 8. They are then to send them to the Gaol, which the Sheriff is to execute with the *Posse Comitatus*; and if they record, and do not send to Gaol, they lose an hundred Pounds. The same Justices, and none other, are to fine them, which Fine must be of good Value, that the Charges may be born by it. And this Fine they may either estreat into the Exchequer, or keep the Offender in Prison till he pay it to the Justices or Sheriff, by 1 H. 5. c. 8.

And this Record they may certify, if they will, to the K. B. or Quarter-Sessions, or keep by themselves. And in all this the Sheriff must join with them. But if the Riot be past, the two Justices must within a Month, at a private Sessions, enquire by a Jury of the Riot, and being found, record it there, and end the Matter, set the Fine, make out Process, commit

till Payment, or upon Payment or Surety to pay, deliver the Prisoner, receive and try the Traverse, and dismiss the Party, if they see Cause. But after Traverse, the usual Course in this Case is, to transmit the Record into the King's Bench or Sessions, there to be tried. And if there be any undue Practice, that the Jury will not find it, it is to be certified by the Sheriff, and the two Justices into B. R.

By Stat. 13 H. 4. c. 7. the Sheriff or his Deputy, Sheriff seems to have a concurrent Jurisdiction with them in to have a concurrent Jurisdiction with the two Justices. fining the Offenders, and therefore upon a Writ of Error brought, the Judgment was reversed, where a Fine was set by the two Justices, without the Sheriff. *Raym.* 386.

The two Justices must have Notice of the Riot, or else they are not punishable. *Dyer* 210.

Adjudged that where Rioters are convicted upon View of two Justices, the Sheriff must be a Party to the Inquisition, and this is by Virtue of the Statute; but if they disperse themselves, before Conviction, the Sheriff need not be a Party; for in such Case the two Justices may make Inquisition without him, for this is *pro Domino Rege*. But if the Justices make no Inquisition, within a Month after the Riot, they are punishable, but the Lapse of a Month doth not determine their Authority to make Inquisition, it only subjects them to a Penalty for not enquiring before.

Indictment against the Defendants, for that they *riotose route & illicite se assemblerunt & sic assembleti insultum fecerunt, &c.*

Two were found Guilty, and the rest acquitted, but the Verdict was set aside, because two could not be Guilty of a Riot, and by Consequence all are acquitted. 2 *Salk.* 593.

Adjudged that were four are indicted for a Riot, if it appear that they assembled lawfully, without an ill Intent, and an Affray happened among them, none are Guilty but those who are actually concerned in it; but if they were unlawfully assembled, then the Act of one may be imputed to all.

Two Justices may record what is done in their Best Way to View, which being a Conviction, they may fine the Offenders, and commit them till paid, but Mr. Dalton says the best Way is to certify the Record into B. R. that they may be fined there.

If they escape being taken by the Justices, this Record being certified, as aforesaid, Process shall issue out against them out of B. R.



Case of a  
Town in De-  
vonshire.

A Town in *Devonshire* was indicted for suffering idle Persons to meet and hold Assizes in Mockery of a Court of Justice. So where one *Gladman* took upon him to be a Mock King, and went to the Priory of *Norwich*, with a Crown of Paper on his Head, with a riotous Assembly, the Liberty was seized. 1 *Cra.* 507. 252. *Evo. Car.* 306.

Case of Riot-  
ers at Charing  
Cross.

Several were indicted for a Riot in rescuing a Per- son from an Arrest near *Charing Cross*, and were fined 500*l.* the chief of them being a Cocker, with a Sword in his Hand, and a Kettle on his Head, and so he stood in the Pillory, and the rest likewise.

Case of a Rio-  
t in a Burrough.

Information against the Defendants, for that they *et armis clamoribus et vociferationibus illicite riotose et va- tose* did hinder the Bailiffs and Burgesses of B. who were assembled on such a Day, &c. to choose a Bailiff for the said Borough, &c. to proceed to the Election, &c. The Defendants were found Guilty, but the Verdict was set aside, because the Information did not set forth that the Defendants were unlawfully assembled, nor that the Bailiffs and Burgesses had any Right to assemble to choose a Bailiff. For to make a Riot, there must be an unlawful Assembling of more than two Persons; and not only so, but there must be an unlawful Act done by them; and by this Information it did not appear but that the Bailiffs and Burgesses might meet to do an unlawful Act themselves, and then it is not unlawful to disturb them.

The

## The Form of the Record of a Riot upon View.

Essex. **M**emozand' quod 20 die Augusti Anno Regni D'ni, &c. \* Nos A. B. & C. D. \* Or one Justice may make a Record, but not upon this Statute. The Record of one Justice is traversable, but not of two, because it is pursuant to the Statute.

Arm. duo \* Justiciar' predict' Dom' Reg' ad pacem in Com' pzed' conserband' assign' & G. H. Baronet- tus adtunc Wiccomes ejusdem Com' ad gravem querelam & humilem supplication' J. P. de S. in Com' predict' Peoman, in p'p'is personis nostris accessimus ad domum mansionalem p'fat' J. P. in Paroch' de S. in Com' pzed' & adtunc & ibidem vidimus T. B. de S. pzed' Labourer & H. P. de H. in Com' pzed' Peoman ac alios malefactores & pacis dict' Dom' Reg' perturbatores nobis ignotos (ad numerum septem person') gladiis baculis p'gonibus bombardis & saltibus armatos & illicite & ridoise ad eandem domum aggregatos multa mala in ipsum J. P. comminantes in magnam pacis dict' Dom' Reg' perturbationem ac populi sui terrorem & contra formam statuti in hujusmodi casu edit' & p'hib' ac p'p'ores nos p'fat' A. B. & C. D. adtunc & ibidem pzed' T. B. & H. P. arrestari & p'xime Gaol' dict' Dom' Reg' in Com' pzed' duci fecimus per visum nostrum & recordum conhibens de illicita congregati- one tumultu & riota pzed' ibid. moztuatos quolibet finem dict' Dom' Reg' p'inde fecerunt. In cuius rei testimonium huic p'fenti recordo nostro sigilla nostra apposuimus dat' apud S. pzed' die & Anno &c. p'adictis.

This Record must be certain as to the Time, Place, Record must be certain. Number, Weapons, Manner, and other Circumstances, because it is a Judgment, and not traversable; for if upon Examination it appears to be no Riot, or that the Justices did not see it, yet the Parties are concluded. But for committing without recording, or making a Record without committing, the Justices forfeit 100 l.

Information against two Justices for not enquiring into a Riot, and found against one of them, is good. *Roll's Rep.* 109.

In the City of London, there was a great Mob and a Riot, wherein Doctor Lamb was murdered in the Streets, for which the City of London was fin'd 1000 l. *Pasch.* 8 Car. 1.

Cafe of the City of London, when Doctor Lamb was murdered.

After a Riot is committed, (if not within the View of the Justices) and the Rioters are gone, the two Justices within a Month, may make a Precept to the Sheriff to summon a Jury to enquire of it; and if it is found, then they may commit the Offenders, and certify the Inquisition into B. R. that they may be fined, which should not be less than 10*l.* for the Principal. *Style.* 303.

### The Form of the Precept for summoning a Jury.

Two Justices  
within a  
Month after  
the Riot done.  
13 H. 4 c. 7.

Essex. *ss.* **A.** B. & C. D. Armig. duo Justiciar. D<sup>ni</sup> Regis ad pacem in e p Com<sup>o</sup> p<sup>re</sup>dict<sup>o</sup> conservand<sup>o</sup> assign<sup>o</sup> necnon, &c. Vicecomiti esus<sup>o</sup> dem Com<sup>o</sup> salutem. Ex parte dicti D<sup>ni</sup> Reg<sup>is</sup> tibi p<sup>re</sup>cipimus quod venire facias coram nobis apud M. in Com<sup>o</sup> p<sup>re</sup>dict<sup>o</sup> 29 die Novemb<sup>ris</sup> p<sup>ro</sup>x<sup>imo</sup> futur<sup>o</sup> viginti quatuor p<sup>ro</sup>bos & legales homines de Com<sup>o</sup> p<sup>re</sup>dict<sup>o</sup> quorum quilibet habet terras & tenementa infra Com<sup>o</sup> p<sup>re</sup>dict<sup>o</sup> liberi tenementi ad annualem balozem viginti solidorum aut per Copiam Rotulorum ad annualem balozem viginti sex solidorum & octo denar<sup>o</sup> ultra omnes repositas ad inquirendum p<sup>ro</sup> dict<sup>o</sup> Dom<sup>o</sup> Reg<sup>is</sup> ac p<sup>ro</sup> indemnitate nostra in hac parte super sacramentum suum de quibusdam illicitis turbis & riotis apud M. p<sup>re</sup>dict<sup>o</sup> in Com<sup>o</sup> p<sup>re</sup>dict<sup>o</sup> nuper commissis ut dicitur quodque retornes super quemlibet personam impanellat<sup>o</sup> in exitibus viginti solid<sup>o</sup> p<sup>ro</sup> ipsas consistendi si non compareant ut jurati sint ad inquirend<sup>o</sup> de p<sup>re</sup>missis ad diem illum & hoc nullatenus omittas sub poena viginti librarum & habeas ibi tunc nomina jur<sup>o</sup> ill<sup>o</sup> & hoc p<sup>re</sup>ceptum Dat<sup>o</sup> sub sigillis nostris apud M. p<sup>re</sup>dict<sup>o</sup> p<sup>re</sup>dict<sup>o</sup> die Augusti Anno Reg<sup>is</sup>, &c.

The



## The Form of the Inquisition,

Essex. ff. **I**nquisitio p Domino Rege capta apud N. in Com' predict' 29 die Octobris Anno Regni, &c. p sacramentum (of the Jury) pborum & legalium hominum de Com' predict' coram A. B. & C. D. Arm. duobus Justiciariis dict' Dom' Reg' ad pacem in Com' predict' conservand' necnon ad diversas felonias transgressiones & alia malefacta in eodem Com' perpetrata audient' & terminand' assign' qui quidem juratores super sacramentum suum predict' dicunt quod H. P. de S. in Com' predict' Beoman & alii malefactores & pacis Dom' Reg' perturbatores juratoribus predict' ignoti vicesimo die Octobris ult' elaps' bi & armis viz. baculis gladiis pugionibus bombardis falcatris & aliis armis inbalibis in messuagium D. H. in Paroch' de H. predict' inter horas decimam & undecimam antemeridianam ejusdem diei illicite & riotose intraverunt & in ipsum D. H. insultum fecerunt verberaverunt & vulneraverunt in Bagnam pacis dict' Dom' Reg' perturbationem & populi sui terrorem ac contra formam Statuti in hujusmodi casu edit' & probis'.

This Enquiry within the Month must be intended of great Riots; for by Virtue of their Commission the Justices may enquire into small Riots at any Time afterwards, so that the Limitation of a Month seems to prevent the Forfeiture of 100*l.* by the two next Justices, in Cases of great and notorious Riots, they neglecting to make Enquiry within that Time.

But if they enquire afterwards, the Indictment shall not be quashed; for that Reason, because a Riot is an Offence at Common Law, and the Statute is not Penal, but only directory to the Punishment. *Sid.* 186.

After the Riot is found upon this Inquisition, the Justices may award a *Venire Facias* directed to the Sheriff of the County, under their own *Teste*, commanding him to cause the Offenders to appear before them. The Form thereof you may see before, in Process on Indictments.

This is only where the Offenders cannot be taken, And so to the and so if the Sheriff return *non est inventus*, you may proceed to the Outlawry.

But

But if they appear, the Justices may fine them, and commit till paid, or may take Sureties by Recognizance to pay the Fine, or may accept a Traverse, which Inquisition and Traverse must be sent to the next Sessions, or into B. R. there to be tried.

### The Form of the Traverse, and the whole Record.

Essex. ff. **A**lias scilicet ad Session' pacis tent etmo die Octobris Anno Regni D'ni, sc. quinto, coram H. D. & P. R. Jr. & aliis sociis suis Justiciar' dict' Dom' Reg' ad pacem in Com' pzed' conserband' necnon ad diversas felonias transgress' & alia malefacta in eodem Com' perpetrat' audiend' & terminand' assign' p sacramentum duodecim pbor' & legal' hominum jurat' presentat' existit quod R. O. de H. in Com' pzed' & T. P. de B. in eodem Com' cum diversis aliis ignotis malefactoribus vi & armis viz. baculis gladiis, &c. decimo die Octobris inter horas decimam & undecimam antemeridianam ejusdem diei apud H. pzed' clausum & domum cuiusdam P. D. riotose fregerunt & intraverunt & prefat' P. D. ad tunc & ibid. verberaverunt contra pacem dict' D'ni Reg' & contra formam Statuti in hujusmodi casu edit' & pbris p quod precept' fuit Wiccom' pzed' quod non omitteret, &c. posteaque scilicet decimo nono die pzed' mensis Octobris Anno supradicti coram prefat' Justiciar' venerunt pzed' R. O. & T. P. in p' p'is personis suis & habit' audit' indictament' pzed' separaliter dicunt quod ipsi non sunt inde culpabiles & de hoc ponunt se sup patriam & W. W. qui p Domino Rege in hac parte sequitur similiter, &c. ideo venit inde jurat' coram Justiciar' dict' Dom' Reg' ad pacem in Com' pzed' conserband' assign' ad session' pacis tent' apud L. die Jobis, &c. tunc p' futur' tenend' qui nec, &c. ad recogn', &c. quia tam, &c. idem dies dat' est tunc prefat' R. O. & T. P. ad quam quidem session' pacis tent' apud S. pzed' in Com' pzed' die, &c. coram dictis H. D. & P. R. Jr. & aliis sociis suis Justiciar' dict' Dom' Reg' ad pacem in Com' pzed' conserband' necnon ad diversas felonias transg' & alia malefacta in eodem Com' perpetrat' audiend' & terminand' assign' venerunt tam prefat' W. W. qui sequitur, &c. quam prefat' R. O. & T. P.

Here recite  
the Venire  
Facias.

The Clerk of  
the Peace.

T. P. in p[ro]p[ri]is p[er]sonis suis & juratoz p[re]d[ic]t[orum] p[er] Mice-  
com p[re]d[ic]t[orum] ad hoc impannellat[ur] & eracti viz. (here  
name the Jury) similiter venerunt qui ad veritatem  
de p[re]missis dicend[um] jurat[ur] dicunt sup[er] sacramentum  
suum quod p[re]d[ic]t[orum] R. O. & T. P. sunt culpabiles &  
uterque etz ist[us] culpabil[is] de transgr[ess]ione & riota superius  
specificat[ur] modo & forma ut sup[er]ius vers[us] eos supponi-  
tur. Ideo cons. est p[er] curiam quod p[re]d[ic]t[orum] R. O. & T. P.  
captantur ad satisfaciend[um] dict[orum] Dom[ini] Reg[is] de finibus  
suis occasione transgr[ess]ione & riote p[re]d[ic]t[orum] qui quidem R.  
O. & T. P. adtunc & ibidem p[re]sent[ur] in curia p[re]d[ic]t[orum]  
dict[orum] petierunt se ad finem cum dict[orum] Dom[ini] Reg[is] oc-  
cassione p[re]d[ic]t[orum] admitti & inde ponunt se separatim  
in misericordia Dom[ini] Reg[is] & finis ejusdem R. O. p[er]  
Justiciar[um] p[re]d[ic]t[orum] assess[us] est ad quinque libras & finis  
ejusdem T. P. assess[us] est p[er] eosdem Justiciar[um] ad decem  
libras ad opus & usum dict[orum] Dom[ini] Reg[is], &c.

The Charges of the Justices and Jury are to be  
paid by the Sheriff out of these Fines; and therefore  
by the Statute of 2 H. 5. c. 8. the Fines may be  
increased, and an Indenture being made between the  
Justices and the Sheriff, he is to be allowed it in pas-  
sing his Account in the Exchequer.

If the Truth of the Riot cannot be found by this Justices to cer-  
Inquisition, then within a Month afterwards, the same tify to B. R.  
Justices and Sheriff must certify into B. R. so much in a Month.  
of the Fact as appears to them, together with the  
Names of the principal Offenders, and the Circum-  
stances and Impediments why the Truth was not  
found, under the Penalty of 20l.

This Certificate may be in *English*, by Way of a Certificate  
Letter, comprehending the whole Truth with the may be in  
Time, Place, &c. and if any material Thing be *English*.  
left out of the Inquisition, it may be supplied in the  
Certificate.

But if the Sheriff die, or the Justices are put out  
of Commission, before the Certificate is made, it can-  
not be done afterwards. Cannot be  
made after  
Death of She-  
riff or Justices,

N. B. If divers Persons be lawfully assembled, and  
fall out of a sudden among themselves, this is no  
Riot, only an Affray.

By Statute 2 H. 5. c. 8. Persons Guilty of heinous  
Riots shall suffer one Year's Imprisonment, without  
Bail.

A Record



Record of a  
Riot upon  
View by two  
Justices, is a  
Conviction.

A Record of a Riot upon View by two Justices of the Peace returned into B. R. is sufficient to convict the Rioters, whereupon they shall be fined. 13 H. 4.

Riots, &c. shall be suppress'd and enquir'd of at the King's Charge; which the Sheriff is to disburse by Indenture between the Justice and him, by Stat. 2. H. 5. c. 8.

In Default of  
two next Ju-  
stices, the o-  
ther Justices  
ought to do  
Execution, &c.

In Default of the two next Justices not executing the Stat. 13 H. 4. c. 7. respectively as to them is appointed, the other Justices of and within the County (upon Notice of such Riot) ought to do Execution thereof, every one upon Danger to be fined; but the Penalty of 100 l. is only to be laid upon the two next Justices.

But not of an-  
other County.

But no Justice of Peace who dwelleth in another County is bound upon the said Penalty of 100 l. to execute the said Stat. of 13 H. 4. altho' he dwelleth next to the Place where the Riot is; and altho' he be in Commission of the Peace for the County where the Riot is.

If two Justices of Peace shall see any making a Riot, they may command others to arrest the Rioters, and then make their Record thereof, and the Offenders shall be concluded thereby.

If Justices don't  
see the Riot,  
cant't record it.

But if the Justices of Peace do not themselves see the Riot, they cannot make a Record thereof, but then they must enquire thereof:

And if the Justices of Peace shall record a Riot, and, upon Examination of the Matter after, it shall appear to be no Riot, or that they saw it not, or that there was no Riot at all; yet the Parties shall be concluded thereby, and have no Remedy; and therefore the Justices shall do well to be advised what they record.

Record must be  
formal and  
certain.

And, for that this Record of the Justices and Sheriff is a sufficient Conviction in it self against the Offenders, therefore it ought to be formal and certain, as well for the Time and Place, as also for the Number, Weapons, Manner, and other Circumstances; because the Parties are concluded thereby, and shall not be received to traverse, or deny it in any Point.

It must remain  
with one of  
the Justices,  
and not among  
the Records of  
the Sessions.

This Record ought to remain with one of the said Justices of Peace, and shall not be left among the Records of the Sessions of the Peace, it being made out of the Sessions, and not appointed to be certified thither.

And

And the said Justices of Peace (and no other) shall assess the Fines upon the said Offenders.

And such Fines must be reasonable and just, and not unreasonable and excessive.

Note also, that the Fine assessed in this and such like Cases, must not be imposed upon all the Offenders jointly, but must be assessed upon every Offender severally. Co. 11. 43, 44.

It is not necessary that one of the Justices of Peace which shall make Inquiry of a Riot, be of the *Quorum*.

Altho' the Words of the Statute are *the same Justices* (i. e. which came to see the Riot) shall inquire; yet if any other two Justices of Peace of that County shall do it, that will suffice.

Also the Justices of Peace, altho' they go not to see the Riot, yet they may inquire thereof within the Month after.

N. B. That all Indictments, Inquisitions or Presentments, taken and found before Justices of Peace, of any Riot, forcible Entry, or other Thing against the Peace, may be delivered into the King's Bench by the Hands of the same Justices of Peace, before whom the same was found, or otherwise may be removed from the said Justices of Peace before the Justices of the King's Bench, by a *Certiorari*; in both which Cases the Justices of the King's Bench may proceed to hear and determine the same.

N. B. For Riots in Cities and Corporations, which are armed with Power of Government within themselves, the Franchises may be seized, or the Corporation fined; as it happened in the Case of the Riot where Dr. Lamb was murdered, the City of London was fined 1000 Marks. *Pasch. 8 Car. 1.*

If Stage-Players, by their Shews, occasion an extraordinary and unusual Concourfe of People to see them act their Tricks, this is an unlawful Assembly and Riot, for which they may be indicted and fined. 2 Roll. Rep. p. 109.

An unlawful Assembly, and an unlawful Act, make a Riot; but if the Assembly was lawful, without an ill Intent, and an Affray happen, the Actors only are guilty. But if the Assembly was unlawful originally, then the Fact will be imputed to all who were present. 2 Salk. 594. 6 Mod. 43, 141.

2 Salk. 594. 6 Mod. 43, 141.

1 Infor.

Information against two Justices for not inquiring of a Riot found against any of them, good. *Style* 245.

A Fine upon Rioters cannot be less than Ten Pounds for the Principal, and Four Marks apiece for the Rest. *Style* 303.

How the Month is to be computed.

Judgment in County of Durham reversed.

The Month within the Stat. 13 H. 4. c. 7. is not to be confined to twenty-eight Days, but to the Almanack Month. 1 *Siderfin* 186. *Pasch.* 16 Car. 2. B. R. The King *vers.* Cousins & al'.

J. S. and others, were convicted in the County of *Durham*, upon the View of J. M. and W. B. Esqrs; two Justices of the Peace, and N. C. Esq; the Sheriff of the same County, of a Riot *contra formam Statuti* de 13 H. 4. c. 7. and they were fined by the Justices, *viz.* J. 20l. and S. and the Rest 5l. a-piece; but the Sheriff did not join in setting the Fine. A Writ of Error was brought, and two Errors assigned. 1. It doth not appear that the Defendants were convicted by the View of the Justices. 2. The Sheriff did not join in the fining them. And the Statute saith, that the Sheriff is to be joined in the whole Proceedings. And for these Errors the Judgment was reversed. *Twin.* 32 Car. 2. B. R. *Raym. Rep.* 386. *Rex vers.* *Tempest* & al'.

Two Justices of Peace (without the Sheriff) are finable if they do not all, which by the Statute of 13 H. 4. c. 7. ought to be done. *Dalt.* 197. *Lamb.* 327.

After Enquiry had, and the Riot found, the Justices have Power to hear and determine the same, *viz.* 1. To make out Process against the Offender under their own Teste. 2. To assess the Fine. 3. To commit till they have paid the Fine. 4. To deliver them after Payment of their Fine, or Sureties taken by Recognizance, or otherwise they may receive their Traverse, if the Matter will serve, and dismit them. *Dalt.* 203. *Lamb.* 323.

Justices should send the Indictment to Quarter-Sessions or K. B.

But the Justices should send such Indictment or Inquisition to the next Quarter-Sessions, or into the K. B. together with the said Traverse, there to be tried. *Dalt.* 203.

Indictment of a Riot is not good, unless it say *contra formam Stat. inde editi & provisi.* Cro. 102. a Nu. 19.



By Stat. 1 Geo. 1. c. 5. where twelve or more are unlawfully, riotously and tumultuously assembled together, to the Disturbance of the Peace, and being required by a Justice, Sheriff or Under-Sheriff, Mayor or other Head Officer, by Proclamation in the King's Name (herein after mentioned) to disperse themselves, and shall, to the Number of twelve, or more, unlawfully, riotously and tumultuously continue together one Hour, they shall be adjudged guilty of Felony, without Benefit of Clergy.

The Justice, Sheriff, &c. or other Head Officer, shall come as near the Rioters as he can with Safety, and with a loud Voice command Silence whilst the Proclamation is making, and then read or cause it to be read in these Words, or to the like Effect.

### The Proclamation.

**O**UR Sovereign Lord the King chargeth and commandeth all Persons being assembled, immediately to disperse themselves, and peaceably to depart to their Habitations, or lawful Business, upon the Pains contained in the Act made in the first Year of King George I. for preventing Tumults and riotous Assemblies.

God save the King.

If, after Proclamation made, the Offenders shall continue together one Hour, and not disperse themselves, it shall be lawful for any Justice, &c. or other Peace-Officer, and all Persons whom they shall command, to assist them to apprehend such Offenders, and carry them before a Justice of Peace; and where any of them are killed in resisting the Person endeavouring to apprehend them, that Person shall be indemnified in so doing.

If Offenders continue one Hour after Proclamation, 'tis Felony without Clergy.

Any Rioters demolishing or pulling down, or beginning to demolish, &c. any Church, Chapel, or Building for religious Worship, certified and registered according to the Stat. 1 W. 3. c. 18. or any Dwelling-House, Barn, Stable or Out-House, shall be a Felon without Benefit of Clergy.

Any

Wilfully ob-  
struſting Pro-  
clamation is  
Felony with-  
out Clergy.

Hundred to  
make good  
the Damage of  
Houſe, &c. de-  
molished.

Proſecution  
muſt be within  
a Year.

Any Perſon with Force wilfully obſtruſting another to make Proclamation, whereby ſuch Proclamation ſhall not be made, ſhall be a Felon without Benefit of Clergy; and Rioters, knowing ſuch Hindrance and Obſtruſtion, and continuing together to the Number of twelve, or more, afterwards, for the Space of an Hour, ſhall be Felons without Benefit of Clergy.

Where any Building is demolished in Part, or in Whole, by the Rioters, the Inhabitants of the Hundred ſhall answer the Damages to the Perſons injured, to be recovered in the Courts at *Westminster*, againſt any two or more of the Inhabitants thereof, to be levied and paid in ſuch manner as provided by the Stat. 27 *Eliz.* And if the Action is brought for Damages done to a Church or Chapel, it muſt be in the Name of the Rector, Vicar, or Curate; and when recovered, it muſt be applied to the Rebuilding or Repairing ſuch Church.

Proſecutions upon this Act muſt be commenced within one Year after the Offence committed.

Every Juſtice within his Jurisdiction is required, on Notice or Knowledge of any riotous and tumultuous Aſſembly, to reſort to the Place, and there to make, or cauſe to be made, Proclamation in manner aforeſaid.

And this Statute againſt Rioters is to be read openly at every Quarter-Sessions. 1 *Geo. 1. c. 5.*

A Mis

## A Mittimus to the Gaol upon View, &amp;c.

To the Constable, &amp;c.

Midd. ff. **U**Pon Complaint made unto us J. S. and J. B. Esqrs; two of his Majesty's Justices of Peace for the County aforesaid, by A. B. of, &c. we did this present 20th Day of October go to the House of, &c. and there we did see C. D. and E. F. and others, assembled together in a riotous and unlawful Company, at K. aforesaid, to the Terror of the People, and against the Peace of our Sovereign Lord the King, and against the Form of the Statute in that Case made and provided: We do therefore herewithal send you the Bodies of the said C. D. and E. F. they being convicted of the said Riot by our own View, Testimony and \* Record, commanding you the said Gaoler to receive them into your Custody, and safely to keep them until they shall from thence be delivered by due Course of Law. And hereof fail not. Given, &c.

Or this may be by one Justice.

You must be sure to record it, ut prius.

## An Indictment for a Riot.

Essex. ff. **J**UR', ec. quod A. B. \* nuper de L. in Com' pzed' Peoman C. D. nuper de J. ec. & E. F. nuper de, ec. vicesimo nono die Octobris Anno regni, ec. vi & armis, ec. viz. Baculis Bladis, ec. riotose & illicite seiplos ad perturband' pacem dict' Dom' Regis nunc apud L. pzedict' in Com' pzedict' assemblerunt & congregaverunt & sic assemblerunt & congregat' erissen' adtunc & ibidem in & super quendam L. M. in pace Dei & dict' Dom' Regis adtunc erissen' insultum fecerunt & ipsum L. M. adtunc & ibidem verberaver' vulneraver' & maletractaver' & assa enozmia ei intulerunt ad grave dampnum ipsius L. M. ac contra pacem dict' Dom' Regis coron' & dignitat' suas necnon contra formam & Statut' in huiusmodi casu edit' & provis'

\* If there is no Addition of Place, the Indictment may be quash'd. Bull. 183.

† If these Words are omitted, the Indictment is not good.



## Robbery. Vid. *plus ante* in Title Felony.

Robbery, what  
it is.

**R**obbery is properly the felonious Taking any thing from the Person of another, or in his Presence, against his Will, by Assault in the Highway or elsewhere, and putting him in Fear thereby; and here altho the Thing taken be but the Value of an Half-penny, yet it is Felony without Benefit of Clergy. 1 Cro. 33. b. Lamb. 267.

But if a Felon take Money from me in the Highway, and do not put me in Fear, or assault me, it is not Robbery. 1 Cro. 34. b. Dyer 240. 40 Shillings so taken, Clergy allowed. 5 E.

If a Thief take nothing from my Person, but assaulteth me, whereby he getteth any thing from me, it is Robbery; as if I cast my Purse on the Ground, and he taketh it away, &c. Lamb. 268.

What is not  
Robbery.

But one finding a Purse in the Highway, denies it; this is not Felony.

To make it Robbery, the Person must be put in Fear. Cro. 34. b.

To assault one to rob him, without taking any thing, is not Robbery. *Ibid.*

So the Bidding of one to stand and yield his Money, is no Robbery; for there was but an Intent, and no Act done in Pursuance of it. 9 E. 4. f. 28. Hale. P. C. 71.

Cases of Rob-  
bery.

One with his Sword drawn, bids me deliver my Purse, and after prays me to give him a Penny, and I do so accordingly, this seemeth to be Robbery; for the Fear he put me in was the Cause thereof.

Crom. 34. So if I, flying from a Thief, cast my Purse into a Bush, and he takes it up, this is Robbery; for the Fear, &c. was the Cause of throwing it there.

Cromp. 35. H. P. C. 73.

If a Thief bids me deliver my Purse, which I do, and he finding but 2 s. in it, gives it me back again; this is Robbery, tho' no Force be used. Crom. 34.

A Thief compels me to swear that I will bring him a Sum of Money to such a Place at another Time, or else he will kill me, and I bring the Money, &c. this is Robbery; or if the Wife receives it, this is a Taking. 44 Ed. 3. 14. & H. 4.

N. B. In Case of suing the Hundred on a Robbery, a Man is allowed to be a Witness in his own Cause *propter necessitatem rei.*

Cutting of a Purse, Picking of a Pocket secretly and privily, is no Robbery.

A Robbery upon a Man in his House, whether by Day or by Night, shall not charge the Hundred. *Co. Hundred is not chargeable.*

If the Party robbed hath his Recovery and Execution against one or a few Persons of the Hundred, upon Complaint, two Justices (*Quorum unus*) inhabiting in or near the said Hundred, may assess a Tax proportionably on every Town, Parish or Hamlet, as well of the said Hundred, as also of Liberties within the same, towards the Relief of the Parties charged; which Sum so taxed, the Constables of every Town, &c. within their respective Limits, shall proportionably assess upon every Inhabitant within the same. If any Inhabitant refuse to pay, &c. the Constable may distrain, and sell the Distress, and must deliver the Money to one of the said Justices within ten Days after Collection. Stat. 27. c. 13.

How the Rate is to be made on the Hundred.

The Inhabitants of another Hundred (tho' in another County) wherein was Default of fresh Suit, after Hue and Cry made, shall answer one Moiety of the Sum of Money and Damages recovered against the Hundred where the Robbery was done; and such Moieties shall be recovered in the Name of the Clerk of the Peace (without naming his Christian or Surname) where such Robbery and Recovery was; and his Death or Removal shall not abate the Suit; and if it be recovered, &c. against one or few, &c. the same Course shall be taken as aforesaid, towards the Relief of the Person charged.

The Apprehending of one Robber discharges the Hundred, tho' the rest escape; but a Pursuit alone does not. 27 Eliz. c. 13.

Taking one Robber discharges the Hundred.

If the Party robbed apprehend any of the Thieves, this shall excuse the Hundred.

By Stat. 6 Geo. 1. c. 23. the Streets of London and Westminster, and of other Cities, Towns and Places, shall be deemed Highways; and all Cartrovers hereafter

after to be signed for Convictions for Robberies, shall be signed and paid without any Deduction or Fee, excepting 5s. for writing and drawing the same, as well where the Offender pleads Guilty, as where he is convicted on Evidence; the Person taking any other Fee or Reward, forfeits 40 l. to be recovered by Action of Debt, &c. in the Courts at Westminster, to the Use of the Person entitled to such Certificate.

Where two  
Servants were  
robb'd.

Where a Servant is robbed, he must be sworn as to the Robbery; and two Servants, each having Money of their Masters in their Possession, were robbed; one took the Oath, according the Statute, of the Robbery: This is not sufficient to entitle the Master to an Action for the Money in the Possession of the other Servant. *Show. Rep. 94.*

Persons coming  
to live in  
the Hundred,  
when to be  
taxed.

A Person coming to inhabit in the Hundred after the Robbery committed, and before Judgment, is assessable, because the County is chargeable at the Time of the Assessment, and not the Persons which were there at the Time of the Robbery committed. *Sir John Compton's Case 15 Car. B. R.*

But a Person coming to inhabit after the Robbery and Judgment given, is not chargeable to be taken in Execution; and so was the Opinion of the Court in one *Dean's Case. Mich. 10 Car. in C. B.*

What Hundred  
must be sued.

Where a Man is seised in one Hundred, and carried into another Hundred by Day-light, and afterwards robbed in the Night there, the Party robbed is without any Remedy. *1 Ann. B. R. Hundred of Basingst. Case.*

Also where a Man is seised in one Hundred, and carried into a Dwelling-house inhabited in another Hundred, and there robb'd, neither Hundred is liable; because the Statute doth not extend to Robberies in Houses, and only to that Hundred wherein the Robbery is committed. *3 Leon. 350.*

Persons neglecting to make Huy and Cry, or who do not pursue it, may be fin'd and imprison'd.

Cases where  
Clergy is not  
allowed.

Robbing a House, or any Out-house, as a Barn or Stable, in the Day, to the Value of five Shillings, any Person being or not being therein.

Robbing a House by Day or by Night, any Person being therein, and thereby put in Fear.

Robbing any Person in any Part of his Dwelling-house, the Owner or Dweller, Wife, Children



or Servants being in any Part thereof, sleeping or waking.

Breaking a House in the Day-time, and stealing to the Value of five Shillings, any Person being or not being therein.

Robbing any Booth or Tent in Fair or Market, the Owner, his Wife, Children or Servants being in the same, sleeping or waking. All these are ousted of Clergy. *Lamb. 265. 39 Eliz. c. 15. 5 & 6 E. 6. c. 9. 3 & 4 W. & M. c. 9. 10 & 11 W. 3. c. 3.*

One B. and another came in the Night-time to a Cafes of Rob-Tavern in London to drink, and after they had drank, bery.

B. stole a Cup in which they had drank in a Chamber of the said House; the Owner of the House and Cup, his Wife and Servants, being in the House: Agreed at the Sessions at the Old Bailey, that this was not Burglary, but Robbery, without Benefit of Clergy, within Stat. 5 & 6 Edw. 6. c. 9. *Popb. Rep. p. 84. Baynes's Case, Kelynge's Rep. p. 68. eontra.*

A Man robb'd another of 49 s. upon the Highway: Ruled to be no Robbery, unless it be found that the Person was put in Fear. *Trin. 5 Eliz. Dyer 224.*

Two Men came into a Publick House to drink, and were shew'd by the Servant, who was Confederate with them, into a Room next to a Chamber in which some Money was lock'd up in a Trunk, and the Servant came to them, and they broke open the Trunk and took away the Money. Chief Justice *Kelynge*, Judge *Twisden* and *Wylde*, were of Opinion, that this is but Felony, and does not make an actual Breaking of the House. But in that Case, if they, being in the House, break open any Chamber-Door, and steal Goods; this is an actual Breaking of the House: Or if they break open any thing which is fix'd to the Freehold, as a Cupboard-Door in a Wall, &c. 8 Car. 2. *Kelynge's Rep. 58. Tho. Johnson, John Gurlans, and Elizabeth Powell's Case.*

Robbery in a House is distinguished from that which is but meer Larceny; for Larceny is only fraudulent, without any actual Force; and a Robbery is done with Force. So the actual Breaking a House makes it Burglary. For if the Door of a House be open, and a Thief enter in the Night and steal Goods; this is only Larceny, and no Burglary, because there was

How Robbery differs from Larceny.

## Robbery.

no Force, which is that which distinguisheth Robbery from Felony.

Now the Force, which will make a Robbery of a House, may either be an actual Breaking of the House, or an Assault upon the Person. *Kelynge's Rep.* 68, 69.

### The Examination of a Person robbed on the Highway.

**Essex. ff.** **T**HE Examination of A. B. of, &c. Gent. taken upon Oath before me J. S. Esq; one of his Majesty's Justices of the Peace for the County aforesaid, on, &c.

13 E. 1.

This Examinant saith, that on, &c. of this Instant, &c. about Four of the Clock of the Afternoon of the same Day, at or near a Place called, &c. in the Parish of, &c. and Hundred of, &c. within the County aforesaid, he was assaulted in the Highway leading from, &c. aforesaid, to, &c. by two Men on Horseback, whereof one was a tall lusty Man wearing a black Tie-Wig, and a Blue Great Coat, mounted on a Bay Gelding about fifteen Hands high, with a Black Mane and Tail, and Star in his Forehead, &c. and the other a middle-sized Man of a swarthy Complexion, having a large Scar on his left Cheek, &c. and by them robb'd in the Highway aforesaid, of the Sum of, &c. and that he did not at the Time of the said Robbery, nor yet doth know either of the said Persons who committed the same.

A War.

## A Warrant to make Hue and Cry where a Robbery is committed.

To all Constables, &c. as well in the said County of, &c. as to others to whom the Execution hereof shall belong.

**W** Hereas A. B. of, &c. has this Day made Oath before me, that on, &c. at or near a Place called, &c. he was assaulted and robb'd of the Sum of, &c. by two Highwaymen on Horseback, one whereof was a tall lanky Man, aged about, &c. wearing, &c. mounted on a Bay Gelding, with a Star in his Forehead, &c. and the other, &c. and that they fled for the same, and are not yet apprehended: These are therefore to command you forthwith to make diligent Search within your several Precincts for the Persons above described, and to make Hue and Cry after them from Town to Town, and from County to County, as well by Horsemen as by Footmen, according to the Direction of the Statutes: And if you find them, or either of them, that you bring them before some one of his Majesty's Justices of the Peace for the County where they shall be taken, to be dealt with according to Law. Given, &c. 13 E. 1.

## A Warrant to assess and levy Money charged upon a Hundred for a Robbery.

**W** Hereas A. B. of, &c. was lately robbed of the Sum of, &c. in the Hundred of, &c. in the County aforesaid, and has obtained a Judgment to recover the same against the said Hundred; but it is charged upon C. D. and E. F. of, &c. two Inhabitants resident in the said Hundred of, &c. And, upon their Complaint to us thereof, we have, according to the Statute, made a Rate upon the several Parishes and Places within the said Hundred, for the Raising of the said Money; which Rate is hereunto annexed: These are therefore to require you, the said High Constables, to give Notice thereof to the Petty Constables within your Hundred; and thereupon they are hereby required forthwith to make a Rate and Assessment upon the several Inhabitants of their respective 27 E. 1;



## Robbery.

respective Parishes, according to their Method of Rating the Poor, to raise the several Sums their said Parishes are rated, as aforesaid. And on Non-Payment thereof, to levy it by Distress and Sale of the Goods of every the Inhabitants not paying respectively: And having levied the same, that they do forthwith bring it unto us, or one of us, to the End that the same may be paid to the said C. D. and E. F. to enable them to answer it to the said A. B. Hereof fail not, &c. Given, &c.

## An Indictment for Robbery.

**J**UR', ec. quod A. B. nuper de ec. in Com' pzed' die & anno, ec. vi & armis inter horas, ec. postmeridianas ejusdem diei in alta Regia via furta quendam locum vocat', ec. in Paroch' de, ec. in Com' pzed' in & super quendam C. D. ec. in Com' pzedic' in pace Dei & dia' Dom' Regis adtunc & ibidem existen' insultum fecit & octo libras legalis monet' Magn' Britan' in pecuniis numeratis de bonis & catallis pzedic' C. D. adtunc & ibidem inveni' a persona ipsius C. D. adtunc & ibidem violenter & felonice cepit & asportavit in Magn' pzedic' C. D. terrorem ac contra pacem, ec.

Sacrat

## Sacraments.

**T**HREE Justices of Peace (*Quorum* 1.) may Three Justices out of the General Sessions, take Information to take Information against and Accusation, by the Oaths of two Persons, against those who deprave the Sacrament of the Body and Blood of our Lord and Saviour Jesus Christ, against the Statute, &c. and may deprave the Holy Sacrament. bind the Accusers and Witnesses by Recognizance, (in five Pounds apiece) to give in Evidence at the Trial. The Statute of 1 E. 6. c. 1. was repealed by 1 M. 1. but is revived by 1 El. 1. in such Manner as the same was 1 E. 6. c. 1.

And such Person being indicted at the Sessions, and The Punishment for so doing. found Guilty of depraving, despising, or contemning the blessed Sacrament, by Words or otherwise, shall suffer imprisonment, and make Fine and Ransom at the King's Pleasure.

Justices of Peace in Sessions may hear and determine Offences, and Contempt against that Act, so as the Parties offending, be informed of, or presented within three Months after the Offences committed.

The Justices may award *Capias*, *Exigent*, and *Capias Uslegat* into that or any other County, and three of them may bail the Offender in order to his Trial.

And they may award a Writ to the Bishop, to be present at the Trial of Offenders against the Statute concerning the most Holy Sacrament of the Altar. Which Writ must be directed to the Bishop of the Diocese. May award a Writ to the Bishop.

Of the Uniformity of Common Prayer and Sacraments, see the Stat. 14 Car. 2. c. 4. at large, and 15 Car. 2. c. 4.

By Stat. 5 Geo. c. 6. the Oath and Declaration required to be taken by 13 Car. 2. by all Officers whatsoever of Cities, Corporations, or Boroughs, &c. stands repealed: And whereas by the same Act, all Persons chosen into any Offices whatsoever, in Cities, &c. that have not within one Year next, before such Election, taken the Sacrament of the Lord's Supper, Clause in according to the Rites of the Church of England; 5 Geo. 1. to indemnify for not taking the and that in Default thereof, every such Office shall be Sacrament.

## Sacraments.

be void ; by 5 Geo. 1. c. 6. such Persons shall be confirmed in such Offices, &c. notwithstanding the not having taken the Sacrament, as aforesaid ; and shall also be indemnified from all Penalties whatsoever, thereby incurred ; nor shall any Person hereafter to be chosen into any Offices aforesaid, be removed by the Corporation, or otherwise prosecuted for such Omission, nor shall incur any Disability or Penalty, unless such Person be so removed, or Prosecution commenced withing six Months after being in such Office ; which Prosecution must be carried on without wilful Delay.

## Sacrilege.

**T**HIS is a Felonious Taking Goods out of any Church or Chapel. And this is an Offence for which the Offender shall have no Benefit of Clergy, and that even at Common Law.

## Salt.

What Owner  
must do when  
Salt is seized.

**B**Y Stat. 5 & 6 W. 3. c. 7. Owner of Salt seiz'd, not making it appear before next Justice, within ten Days after Seizure, by Oath of one Witness, that the Salt was duly entered, and that there was a Warrant for carrying away the same, shall forfeit the Salt and double the Value to the King and Seisor. One Justice to take Affidavits of the Quantity of Rock-Salt, melted and refined ; and Justices to set Prices of Salt and Rock-Salt, to be sold by the Maker, at *Easter* and *Michaelmas* Sessions, for the half Year next ensuing.

If Salt is lost  
at Sea, Duty  
to be allowed.

By Stat. 9 & 10 W. 3. if any have paid the Duty, and ship'd Salt, and the Ship be taken, or perish at Sea, the Owner, on Proof made in Sessions of the Loss of such Salt, shall receive a Certificate from Sessions ; and on producing it to the Officer, Owner shall be permitted to buy and ship the like Quantity mentioned



tioned in the Certificatt, without paying any Duty for the same.

Lord Mayor and Court of Aldermen of London, Lord Mayor, within the Bills of Mortality, and Justices of Peace &c. to set the in Sessions, may set and publish in Writing the Price Price on Salt. of Salt; and Persons selling at a higher Price, or refusing to sell at the Price so set, forfeit for every Offence 5*l.* to the King and Informer, to be levied by Warrant from the Lord Mayor, or one Justice, by Distress, &c.

Salt shall be sold by Weight, fifty-six Pounds Weight to the Bushel, on Penalty of 5*l.* to the Informer. Two Justices to hear and determine Offences against this Act. Appeal to Quarter-Sessions, who may determine finally. Party accused to be summoned, to be examined about the Matter of Fact. Two Witnesses or Confession. Penalty to be levied by Distress and Sale in six Days, if not redeemed. For Want, Imprisonment till Satisfaction made; 40*s.* Penalty for Officer not attending (on Notice) to see Salt weighed to be shipp'd off; to be levied as before, and disposed of so. Salt must be sold by Weight.

By Stat. 5 & 6 W. 3. a Duty of one Penny and Half Penny *per* Gallon, is laid upon Salt made in England, and three Pence *per* Gallon on foreign Salt imported; and by 7 & 8 W. 3. this Duty is continued for ever; and the Duty on foreign Salt must be paid in ready Money on Entry made, before the Landing, or by giving Security to pay it in six Months; otherwise the same, or the Value thereof, is forfeited; and for prompt Payment the Owner shall have 10*l.* *per* Cent. abated. The Tax on Salt.

By another Act made 1 Ann. c. 13. and another made 9 Ann. c. 21. Persons removing or conveying Salt from Salt-Works, or Place thereunto belonging, without due Entry and Payment, or Security, or without Warrant, Ticket, or Licence, forfeit 40*l.* and the Salt. If no Distress, to be committed to the House of Correction, and whipped, and kept to hard Labour, not exceeding a Month. Must not be remov'd before Duty is paid.

Refusing to permit an Officer to enter into Works or Warehouses in the Day or Night, in the Presence of a Constable, forfeits 40*l.* Not suffering Officer to enter, forfeits 40*l.*

Persons hindering, or obstructing any Officer for the Salt-Duties, in the Execution of his Office, or who shall beat or abuse them, forfeit 20*l.* On Refusal of Payment, Distress, &c. for Want, to be sent to Abusing an Officer, 20*l.*

to the House of Correction, as aforesaid. Proof of Offence before one Justice.

No Salt-maker shall act as a Justice of Peace in any Matter relating to Duties on Salt.

No Salt to be brought from Scotland.

By a Stat. made 2 & 3 Ann. c. 14. no Salt is to be imported from Scotland, Ireland, or Isle of Man, on Penalty of 20*l.* or six Months imprisonment. No Salt to be brought into England from Scotland, by Land, on Forfeiture of the Salt, and 20*s.* a Bushel. Persons so doing may be apprehended and brought before a Justice; on Proof of the Fact, Offender to pay Penalties as aforesaid.

No Salt to be delivered from any Salt-works without Notice to the Officer appointed for that Purpose, on Forfeiture of the Salt, and 20*l.* by Owner of the Salt-works.

Carrying Salt without a Permit, forfeits 20*l.*

Carrier conveying Salt without a Warrant or Permit, forfeits 20*l.* Salt shipped for Exportation, and perishing in Port, by sinking of the Ship, &c. before Exporter is allowed for a Drawback, in such Case Exporter, on Proof before Justices at Quarter-Sessions, and on Certificate, &c. from Justices to Collector, &c. Proprietor may buy like Quantity, Duty-free. One Moiety of Penalties to the King, the other to Informer; to be recovered as by Laws of Excise, or in any other Court of Record.

Where Salt is lost at Sea Duty is to be allowed.

By 12 Ann. c. 2. Master of a Vessel producing a Certificate to Collector of Salt-Duties, that Duties were paid or secured to be paid, and making Oath of the Quantity in such Certificate, and that the said Salt is for curing Fish at North Seas, or Iseland, shall, if the said Vessel be lost at Sea, or taken by the Enemy, on producing Certificate to, &c. have Duty repaid or Security discharged; provided Proof be made within nine Months after Loss.

By Stat. 5 Geo. 1. c. 18. for better securing the Duties on Salt, Offenders in Default of Payment to be sent to the House of Correction for three Months.

Defendant may plead general Issue.

In Suits relating to the Salt Acts, the Defendant may plead the general Issue, and give the Special Matter in Evidence; and if the Verdict pass for the Defendant, or the Plaintiff be Nonsuit, he shall have double Costs.

No Certiorari is to be allowed.

No Certiorari shall supersede Execution, or other Proceedings, upon any Order made by the Commissioners of Salt, or Justices of Peace, in Pursuance of this Act.

All foreign Salt, imported, cellared, and locked Salt turned up before the 24th of *June*, 1719. in the Presence of <sup>over as Stock</sup> an Officer for the Salt-Duties, shall at the Desire of <sup>in Hand.</sup> the Proprietor, or his Agent, be turned over as Stock in Hand, for the Use of the Fishery, free from Duty, subject nevertheless to the same Conditions and Restrictions as all other foreign Salt intended for the Use of the Fishery, and imported after the 24th of *June*, 1719.

By 6 *Ann. c. 12.* and 12 *Ann. c. 2.* Salt shipped for *Ireland, &c.* and lost at Sea, or taken by Enemies, the Proprietor or Exporter is to make Proof thereof, within a Month after, before the Justices at their Sessions, and the Duty is to be allowed.

By Stat. 8. *Geo. 1. c. 16.* every Maker or Curer of White Herrings in that Part of *Great Britain* called *England, Wales, and Berwick upon Tweed*, before he <sup>entred.</sup> remove any White Herrings, (except for Exportation) from the Office or Place where cured, must enter them at the next Salt-Office, and pay the Duty. And the Quantity must be marked on the Cask; and upon the Entry and Payment of the Duty, the Salt-Officer to give a Permit.

The White Herrings removed or carried away be- <sup>Under what</sup> fore Entry, and Duty paid, or Cask mark'd, forfeited, <sup>Penalty.</sup> and forty Shillings for every Cask or Vessel removed. One Moiety to his Majesty, the other to the Officer who shall seize the same.

To be recovered, levied, and mitigated in such Manner as Penalties by any Law of Excise are recoverable.

A War-



### A Warrant to levy the Forfeiture on a Person for selling Salt by unlawful Measure.

9 & 10 W. 13. Essex. ff. **W** Hereas it hath been duly proved before us A. B. and C. D. Esqs; two of his Majesty's Justices of Peace for the County aforesaid, that E. F. of your Parish, hath lately at divers Times, and particularly on, &c. sold several Quantities of Salt by the Bushel, and not by Weight, at the Rate of fifty-six Pounds to the Bushel (or, by Weight under fifty-six Pounds to the Bushel) contrary to the Statutes in that Case made: These are therefore to command you to levy the Sum of 5*l*. which the said E. F. hath forfeited by the Offence aforesaid, on his Goods and Chattels, by Distress, and Sale thereof, if not redeemed in six Days, and that you do pay the same to, &c. who hath given us Information of the said Offence. Given, &c.

### A Warrant and Commitment of a Person conveying away Salt before Entry made, and Duty paid.

1 Ann. c. 13.

**W** Hereas A. B. of, &c. Officer for collecting the Duties upon Salt on, &c. of this Instant, &c. made Information on Oath before me, that C. D. of, &c. Carrier, on, &c. last past, carried and conveyed from the Salt-works of, &c. situate, &c. a large Quantity of Salt, not being entred at the Salt-Office, or the Duty paid for the same, as the Acts of Parliament require; whereupon the said Salt hath been seized as forfeited: And the said C. D. being this Day apprehended and brought before me, but not being able or refusing to pay the Penalties inflicted by Law for such Offences, and having no Goods, whereof a Distress may be taken for the same: These are therefore in his Majesty's Name, to command you to convey the said C. D. to the House of Correction at, &c. aforesaid, and to deliver him to the Keeper thereof: Hereby requiring you the said Keeper, to receive the said C. D. into your Custody, and him there to keep at hard Labour, for the Space of one Month, according to the Direction of the Statutes in that Case made. Given, &c.

A War-

## A Warrant to levy the Forfeiture for refusing an Officer Entrance, and abusing him, &c.

Essex. ff. **W** Hereas Information has been this Day given 9 Ann. c. 21. unto us J. S. and M. N. two of his Majesty's Justices of Peace for the County aforesaid, by A. B. Officer concerned in the Duties of Salt, that C. D. of your Parish, on, &c. last, refused the said A. B. Entrance to the Salt-works of him the said C. D. situate in, &c. though there was a Constable then present to attend him (or, that C. D. on, &c. did beat, abuse, or threaten the said A. B. in the Execution of his Office) contrary to the Statutes in that Case made; whereby he hath forfeited the Sum of, &c. These are therefore in his Majesty's Name to command you to levy the said Sum of, &c. on the Goods of the said C. D. by Distress and Sale thereof; and if he has not sufficient Goods, whereof a Distress may be taken, that then you do convey him to the House of Correction, &c. Given, &c.

## Scabengers. Vide Highways.

**T**HAT the Highways of this Kingdom in general, are in a nasty Condition, and that the Streets of London and Westminster, and the Out-parts in particular, are ill paved, ill cleaned, and ill lighted, is too obvious to every One's Sight, to need any further Demonstration.

The Highways in some Places have been much mended, by Reason of Turnpikes erected by particular Acts of Parliament, obtained with much Trouble and great Expence. In others they are little the better, through Knavery and Mismanagement, though great Sums have been, and still are, daily raised.

But tho' there have formerly been several Acts of Parliament for the paving several Streets in London, and the Outparts, as particularly in the 24, 25, 32, 34, & 35 H. 8. 13 & 23 Eliz. yet I do not remember any Statute for cleaning or lighting the Streets of London.

The Highways are in a nasty Condition.

No Stat. for cleaning the Streets before the Restoration of King Charles II.

But since these Statutes have been made 13 & 14 Cha. II.

*London or Westminster*, before the Restoration of King *Charles II.* but in the 13th and 14th Year of his Reign, an Act passed, empowering the King to nominate twenty-one Commissioners, besides certain others therein named, to survey, order, and manage the Highways, Streets, &c. of *London* and *Westminster*, and Suburbs, and other Places, within the Bills of Mortality.

19 Car. 2.

It is true, this Act is expired, and it being in a good Measure copied in most of the other Acts since made on this Subject, I shall not transcribe any of the Clauses in it, nor shall I enlarge on the Statute made in 19th of King *Charles II.* because being made the Year after the Fire of *London*, it serves chiefly for vesting the sole Power of paving, cleaning, and lighting the Streets, &c. within the City of *London* and Liberties thereof, in Commissioners, as it is hoped, those of *Westminster* and the Outparts will shortly likewise be for the future.

22 & 23 Car. 2.

The Stat. of 22 & 23 Car. 2. confirms and makes perpetual that of the 19th of the said King, which was only temporary before, and settles the Power of the Commissioners, and gives them Power of raising Money, and laying Taxes, &c. within the City of *London*, and Liberties thereof.

2 W. & M. c. 8.

And this was all that was done in this Affair, till the Second Year of *W. & M.* when an Act passed, c. 8. which is the Basis or Ground-work on which the Law, in a great Measure, now stands in this Matter.

Inhabitants to sweep their own Doors.

By this Statute, Inhabitants within the Weekly Bills of Mortality, in *Middlesex*, *Westminster*, *South-work*, and *Kensington*, are enjoined to sweep the Streets before their Houses, every *Wednesday* and *Saturday*, or they forfeit for every Neglect 3s. 4d.

N. B. This Penalty, by another Statute made 8 & 9 W. 3. c. 37. is increased to 10s.

None to lay Dirt, &c.

Laying Dirt, &c. in the Streets before their own Houses, forfeits 5s.

Laying Ashes, Dirt, &c. before the Houses and Walls of other Persons, or before Church-walls, or throwing any noisom Thing in the Common Shore, Highway, or private Vault, forfeits 1l.

The respective Church-wardens, and Keepers of his Majesty's Palaces, and the Keepers of the Courts of Justice, suffer the like Penalties, for the like Offences.

Hooping



Hooping or cleansing Vessels in the Streets, mehd-None to hoop  
ing empty Coaches, or sawing Timber or Stone, for- Vessels in the  
feits for every Offence 1 l. Streets, &c.

Scavengers, every Day, except Sunday or Holiday, Scavengers to  
must bring Carts, and give Notice of carrying away come daily.  
the Dirt, or forfeit 2 l.

Streets, Lanes, and Alleys, paved at the Time of (Inhabitants to  
making the Act, are to be kept so at the Charge of pave their own  
the Inhabitants, before their respective Houses, or for- Doors.  
feits for every Perch or Rod 1 l. and for every Week  
afterwards, till it is done, 1 l.

One or more Justice or Justices, may certify to Ses- Justice to cer-  
sions what new Ways are fit to be paved, and the tify to Sessions  
Sessions may take such order as they shall think fit, what new  
and the Inhabitants of Houses adjudged to be paved Ways are to be  
or mended, must do the same from such Houses, to paved, &c.  
the Middle of the Highway, or forfeit for every  
Perch not paved or mended 2 l. and for every Week  
afterwards till done 2 l. And when paved, &c. must  
be kept so, or forfeit 1 l. and for every Week after-  
wards till done 1 l.

Ancient Streets must be maintained according to  
Custom.

Assessments for Scavengers of the Parishes of St. How Scaveng-  
Ann's and St. James's shall be rated according to the ers Rates are  
Custom of the City of Westminster, and new Houses to be laid.  
to be built, are to pay proportionably with others.

On Monday and Tuesday in Easter-week, yearly, two When Sca-  
Tradesmen of the Parish must be chose by the Con- vengers are to  
stables, &c. who must take upon them the Office, be chosen.  
within seven Days after the Election and Notice, or  
for their Refusal forfeit 10 l.

And then new Ones must be chosen, who must take  
on them the said Office, under the like Penalty, to be  
paid to the Surveyors of the Highways, and to be  
employed towards Repairing the Highways. It is to be  
levied by Warrant of one Justice, &c. and in Default  
of Distress and Payment, within six Days after De-  
mand, the Offender must be committed.

Within twenty-eight Days after new Scavengers are When they are  
chosen, the old Ones must account before two Justices to account.  
for the Money assessed and collected, and what re-  
mains in their Hands must be paid to the new Ones.

Justices, &c. at Petit Sessions may give Scavengers Sessions give  
Liberty to lodge their Dirt in vacant Places, near the Power to lodge  
Streets, satisfying the Owners: And if their Demands their Dirt.  
are unreasonable, Justices, &c. may moderate it.

Order of Sessions is final.

Persons aggrieved by a Tax, &c. or Determination of any Justices, &c. may appeal to the Sessions, whose Order is final.

Assessments to be made at Sessions.

One or more Assessments, not exceeding 4*d.* per Pound for Lands, and 8*d.* for every 20*l.* of personal Estate, may be made every Year by such Persons as the Sessions shall think fit; and the Money thus assessed shall be raised and applied to the Highways, according to their Direction. This is to be levied by Distress and Sale, &c. if not paid within fourteen Days after Demand, rendering the Overplus, Charges deducted.

New Sewers, to whom subject.

New Sewers made in any of the said Parishes since 12 Car. 2. shall be subject to the Commissioners of Sewers, who may direct Making new Ones, and alter any Nuisances, cross Gutters, and Channels in the Streets or Lanes.

Candles must be hung out nightly, or pay to Lamps.

Candles must be hanged out of such Houses which join to the Streets, from *Michaelmas* to *Lady-Day*, and from the Time it grows dark, till Twelve of the Clock at Night, or forfeit 2*s.* except the Inhabitants agree to use Lamps.

How a Truss of Hay must weigh.

A Truss of old Hay exposed to Sale between the last of *August* and the first of *June* following, must weigh 56 Pounds, and from *June* to *August* 60 Pounds, or forfeit 1*s.* 6*d.* per Truss.

What Time Hay-Carts must go home.

Persons suffering Carts, &c. to stand loaded with Hay or Straw, after Two of the Clock in the Afternoon, from *Michaelmas* to *Lady-Day*, for every Offence forfeit 5*s.* and from *Lady-Day* to *Michaelmas* after Three, forfeit 5*s.*

Conviction of these Offences is to be by View of the Justice, &c. Confession of the Party, or Oath of one Witness; if by View of the Justice, then one Half is to the Poor, &c. the other to repair the Ways, otherwise to the Poor and Prosecutor.

How Penalties must be levied.

These Penalties are to be recovered by Distress, &c. by a Warrant of one Justice, &c. to the Constable; or if no Distress can be taken, then if not paid within six Days after Demand or Notice in Writing, left at the House of the Offender, by the Constable, must be committed till paid.

How the Wheels of Carts must be made.

The Wheels of Carts must be six Inches in the Felly, and without Iron, and drawn only by two Horses after they are up the Hills near the Water. Owners offending forfeit for every Time such Cart is used 2*l.* for the Uses, and to be levied as aforesaid.

Country

Country Carts, and Carts carrying Goods Half a Mile beyond the paved Streets, are excepted.

Swine may not be kept in the House or Back-sides of the paved Streets, on Pain of forfeiting them to the Poor. Swine not to be kept near Houses.

Officers may in the Day-Time, by Warrant from the Lord Mayor, or one Justice, &c. search for Swine, and drive them away and sell them, and deliver the Money to the Church-wardens, &c. for the Use of the Poor.

The Cleaning of the Streets, &c. within the City of London and Liberties thereof, shall be managed according to the ancient Usage of that City. Cleaning Streets in London must be managed as formerly.

Lord Mayor or any Alderman, may present upon View, any Offence within the City and Liberties thereof, and may assess Fines, not exceeding 10*s.* for every Offence, to be paid to the Chamberlain of London, for the Use of the City. Lord Mayor, &c. may present, upon View.

In Actions commenced for putting 22 & 23 Car. 2. (entituled an Act for the better paving and cleansing the Streets, &c. in the City of London,) or this Act in Execution, the Defendant may plead the general Issue, and the Act or Special Matter, in Evidence; and if the Plaintiff is Nonsuit, discontinue, or a Verdict against him, shall pay treble Costs. And Highways leading from the East-side of Clerkenwel-Green to St. John's Street, shall be paved as that Act directs. In Suits Defendants may plead the general Issue, &c.

By Stat. 8 & 9 W. 3. c. 37. where one Side of a Street or Lane lies within the Bills of Mortality, and the other Side without, the Justices of Peace may cause the respective Inhabitants to pave that other Side, under the same Penalty, as if the same had been within the Bills of Mortality. Where one Side of Street is paved, and the other not.

Where there is any Liberty, Precinct, or Village, within the Weekly Bills, that uses to repair their own Highways, and also perform Days Work to other Highways, and are, or shall become unable, the Justices of Peace at their Special Sessions, to be held every four Months, may allow so many Days Work as the said Justices shall think fit to be employed by the Inhabitants of such Liberty, &c. and the Residue of the Days Work, as such Inhabitants are liable to, shall be employed in repairing the other Highways. Justices may allow Days Work.

Owners of Hay, brought into the Hay-market, are to pay 3*d.* per Load, and for Straw 1*d.* to such as the Justices shall appoint, towards Mending the Street called the Hay-market; on Refusal to pay, it is to be levied



How Highway is to be paved.

levied by Warrant from one Justice ; and Distress and Sale in three Days.

So much of the ancient Highway leading from *Tottenham-Court*, near *St. Giles's Pound* towards *Tyburn*, as is new built on both Sides thereof, shall be hereafter repaired, paved, and maintained, by such Persons as have heretofore used to repair, pave, and maintain the same, under the Penalties aforesaid.

Quarter-Sessions may appoint Scavengers.

By Stat. 1 Geo. 1. c. 48. the Quarter-Sessions may appoint Scavengers, and order the Repairing or Cleansing of the Streets in any City or Market-Town, and appoint Persons to make Assessments on all Owners and Occupiers of Lands and Houses equally, not exceeding 6 d. per Pound per Ann. to defray the Charges of such Scavengers, which may be collected by such as the Justices think fit, and levied in eight Days by Distress, &c.

Carman riding in a Cart forfeits 10 s.

Any Carman, &c. riding in a Cart or Dray, not having another on Foot to guide it, forfeits 10 s. to the Informer, and the Poor of the Parish.

How Pavements are to be repaired.

N. B. The Pavements of Streets are to be repaired by the Inhabitants of the said Streets, and the Scavengers are to be paid by the Parishoners : Persons are bound to repair their own Doors at their own Costs, they having the principal Benefit of it. And those Persons who are thus bound to repair the Pavements, are to contribute to the Payment of the Scavenger's Rates. *Salk. Rep.* 356.

All the Law is fruitless till a new Commission shall be granted.

But yet, after all these Laws made, and vast Sums of Money yearly raised and paid, it is certain that the Streets of *London* and *Westminster*, and the Outparts are still kept in a nasty, stinking and a scandalous Condition, occasioned partly by the bad Execution of the Laws already in Being, but much more by the many very great Defects of those Laws themselves, which (as things are) really are impracticable ; and therefore, till there be a Commission established, whose sole Business it shall be to superintend these Things, and daily mind them by proper Officers, with a Power of making suitable By-laws, and raising and applying the Money in an equal, fair, and just Manner ; and a Power of punishing their Officers and others, and hearing and determining all Complaints, in a plain, short, and summary Way ; all which cannot be done in the Method now used ; we must not expect any great Amendment in the paving, cleaning, and lighting our Streets, which yet is what every Body laments and daily complains of, and would be very glad to see rectified

and amended, and is what the Honourable House of Commons have lately more than once gone upon, and made some Progress in, but (for Reasons not proper to be here mentioned) have been hitherto obstructed and hindred from bringing to Perfection.

A Warrant to levy ten Pounds by Distress and Sale of the Goods of One refusing to take on him the Office of Scavenger, being duly chose, and confirmed by two Justices, &c.

To the Constables of the Parish, &c.

Middl. ff. **F**Orasmuch as it hath been duly proved before 2 W. & M. me, this present Day, that R. G. of your c. 8. Parish, Grocer, hath refused to take upon him, and execute One Justice. the Office of Scavenger of the said Parish, for the Year ensuing, within seven Days next after he was legally chosen and appointed to serve in that Office, and thereupon confirmed by two Justices of Peace within that Jurisdiction, according to the Form of the Statute in that Case made and provided; by Means whereof he hath forfeited the Sum of Ten Pounds: These are therefore (in his Majesty's Name) to charge and command you that you, some or one of you, do forthwith, upon Sight hereof, levy the said Sum of Ten Pounds, so by the said R. G. forfeited, for the Offence aforesaid, according to the said Statute, by Distress and Sale of his Goods and Chattels, (rendering the Overplus unto the said R. G. if any such shall remain, after your reasonable Charges in and about the said Distress and Sale are first deducted) the said Monies so levied by you, to be paid to the Surveyors of the Highways of your said Parish, to be by them employed towards Amending the same, according to the Directions of the Statute aforesaid: Whereof fail not, &c. Given, &c.

**A** Warrant and Mittimus to send the Scavenger who collected the Monies the Year preceding, for refusing to account and pay over the Monies in his Hands to the present Scavengers.

To the Constables, &c. and to the Keepers,  
&c.

2 W. & M.c.8.  
Two Justices.

Middl. ff. **F**Orasmuch as by our Warrant lately to you directed, you were commanded to summon A. B. late one of the Scavengers of your Parish, to appear before us on Thursday the Day of Instant, at the Sign of the Mitre in, &c. and to bring with him a true Account in Writing of all such Monies as were by him received the last Year, towards the Cleaning the Streets of the said Parish, as also the Monies then remaining in his Hands, to be paid over to the present Scavengers of the said Parish, according to the Directions of a late Act of Parliament in that Case made and provided: And forasmuch as you the said Constables have since returned unto us that the said A. B. did refuse to come before us at the Time and Place above-mentioned, and hath since absented himself, and refused to be spoken with, notwithstanding due Notice in Writing for him to have made his personal Appearance before us, at the Time and Place aforesaid, was by you left at his dwelling House: These are therefore (in his Majesty's Name) strictly to command you and every of you the said Constables, to apprehend the said A. B. and forthwith convey him to his Majesty's Gaol in this County, and there deliver him to the Keeper thereof, with this Precept: Commanding also you the said Keeper to receive the said A. B. into your Custody, and him safely keep in his Majesty's Gaol aforesaid, without Bail or Mainprize, until he shall have made a true Account, and paid what Monies remain in his Hands, as aforesaid, or be otherwise discharged by due Course of Law. Whereof fail not, &c. Given, &c.

A War.

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## A Warrant to levy the Penalty for not Sweep- ing the Street before their Doors, &c.

Middl. ff. **W** Hereas it has been duly proved before me by 8 & 9 W. 3. A. B. of, &c. that C. D. of the Pa-<sup>c. 37.</sup> One Justice. rish of, &c. neglected to sweep the Street before the Door of the House wherein he the said C. D. dwells and inhabits, on Wednesday or Saturday the, &c. of this Instant, contrary to an Act of Parliament in that Case made; whereby he has forfeited the Sum of 10 s. These are therefore in his Majesty's Name, to require you to levy the said 10s. by Distress and Sale of the Goods and Chattels of the said C. D. and if there be no Distress to be had or taken for levying thereof, and the said C. D. shall not pay the said 10s. in six Days after demanded or Notice given, then you are to convey the said C. D. to the common Gaol, there to remain till Payment. Given, &c.

## A Warrant to distrain for the Scavengers Rates.

To the Constables and Headboroughs of, &c.

Middl. ff. **W** Hereas Complaint hath been made unto me <sup>2 W. & M. c.</sup> that the several Persons whose Names are <sup>8. One Justice.</sup> here under-written, being Inhabitants of the Parish of St. G. in the Fields, in the County aforesaid, have refused, and yet refuse to pay the Sums of Money hereunder to their several Names respectively added, and severally and respectively duly rated and assessed on them, for and towards the Cleaning of the Streets, according to the Form of the Statute in that Case made and provided: These are therefore (in his Majesty's Name) to charge and command you and every of you to bring the said Persons, so refusing, before me, to shew Cause for such their Refusal: And if they, or any of them, shall refuse to come before me, or shall absent themselves, or refuse to be spoke withal, due Notice in Writing being left at their respective Houses, that then you immediately levy all and every the said several Sums unpaid, and all the Arrears thereof, of all and every the said Persons so refusing, by Distress and Sale of the Offender's Goods, you rendering to the Parties the

Overplus that shall remain upon the Sale of the said Goods, if any such shall be ; and for your so doing, this shall be your Warrant. Given, &c.

### A Warrant to levy the Penalty on a Carman riding in his Cart, &c.

1 Geo. 1. c. 48. Middl. ff. **W**Hereas A. B. of, &c. Carman, hath this Day been legally convicted before me J. S. Esq; one of his Majesty's Justices, &c. of riding in a Cart in the Street, &c. no other Person being on Foot to guide the same, to the great Danger of Passengers in the said Street, and contrary to an Act of Parliament in that Case made : These are therefore to require you to levy by Distress and Sale of the Goods of the said A. B. the Sum of 10s. which he has forfeited for the Offence aforesaid ; one Moiety whereof you are to give to, &c. who informed of the said Offence, and the other Moiety to apply to the Use of the Poor of, &c. aforesaid, according to the Direction of the said Act of Parliament. And if there be no Distress to be had for the same, then you are to convey the said A. B. to the House of Correction, there to remain for the Space of three Days. Given, &c.

It would swell this Book to too great a Bulk, to set forth Warrants for every Offence against these Statutes ; but it will be easy to frame one by the following Directions.

1. Recite the Proof, viz. upon View, Confession, or one Witness.
2. The Offence, as near as may be to the Words of the Statute.
3. The Forfeiture, and for whose Use.
4. Lastly, the Clause of Distress.

**School.**

## School-Master.

**I**F any keep a School-Master who shall not repair to Church, or be allowed by the Ordinary, shall forfeit for every Month 10 *l.* But the Ordinary shall take nothing for such Allowance, and the School-Master so teaching, shall be disabled to be a Teacher of Youth, and shall suffer Imprisonment for one Year, without Bail. How School-Master must be qualified.

The Prosecution must be at the Sessions, &c. within a Year and a Day after the Offence committed.

The Forfeiture is to be divided between the King, the Poor, &c. and the Prosecutor.

But Conforming before Judgment to the Bishop of the Diocese, or in open Sessions, the Offence is discharged thereby, and also the Penalties thereon incurred. 23 *Eliz. c. 2.*

None shall use or teach a School out of the Universities and Colleges, except a Grammer-School, or in same Gentleman's House, or be licensed by the Ordinary, upon Pain that the School-Master, and he that retaineth him, shall forfeit 40 *s.* a Day, to be recovered by Action.

The Forfeitures to be divided between the King and the Prosecutor. 1 *Jac. 1. c. 4.*

If any School-Master or other Person, instructing Youth in any private House or Family, as a Tutor or School-Master, shall instruct or teach Youth as a Tutor or School-Master without Licence from the Archbishop or Ordinary, for which he shall pay Twelvepence and no more; and before Subscription made, as the Act prescribes, for the first Offence shall be imprison'd three Months without Bail: And for the second and for every other Offence, shall suffer Imprisonment for three Months without Bail, and pay the King 5 *l.* 14 *Car. 2. c. 14.*

## Seamen.



## Seamen.

Two Justices, &c. may put poor Boys Apprentices to Sea-Service.

The Qualifications.

Till what Age may be bound; and inserted in Indenture.

Parish to pay 50s.

Not to be Pressed till Eighteen Years old.

To send Counterpart to Collectors of Customs.

Collectors to send Certificates to the Admiralty.

**B**Y Stat. 2 Ann. c. 6. two Justices of Peace, or the chief Magistrate of any City or Town Corporate, with the Church-wardens and Overseers of the Poor of their respective Parishes, by and with the Consent of two Justices, &c. may put Boys Apprentices to the Sea-Service, under these Qualifications.

1. They must be Ten Years old or upwards; this is altered by Stat. 4 & 5 Ann. c. 19.

2. Such as are likely to be a Charge to the Parish.

3. Such whose Parents are actually chargeable to the Parish.

4. Those who beg for Alms.

These may be bound to Masters or Owners of Ships or Vessels used to Sea-Service, till the Age of Twenty-one Years.

The Age of the Boy is to be inserted in the Indenture, and that shall be taken to be his true Age, without any further Proof thereof.

The Church-wardens and Overseers shall pay the Master when the Boy is bound 2*l.* 10*s.* for Cloathing and Bedding, which must be allowed by the Parish in their Accounts.

Such an Apprentice is not to be Pressed till he is Eighteen Years old.

The Parish-Officers must send the Counterpart of the Indenture to the Collector of the Customs in such Port, and it must be sealed by the Master in the Presence of the Collector and Constable where the Master doth belong, and attested by them; and such Collector must enter it in a Book, and shall endorse on the Indenture, that it is registred, and subscribe his Name without Fee; and if he neglects or refuses so to do, or makes a false Entry, he forfeits 5*l.*

And this Forfeiture is to go to the Poor of the Parish from whence the Boy was bound.

The Collectors must transmit unstamp'd Certificates to the Admiralty, of the Names and Ages of such Apprentices, and to what Ships they belong; and upon Receipt of such Certificates, Protection shall be granted till the Boy is Eighteen Years of Age; but then he

he may be Pressed, and the Master shall receive his Wages.

Any poor Boy bound by the Parish to any other Employment, may with the Consent of two Justices, <sup>Boy may be turned over,</sup> &c. at the Request of the Master or his Executors, &c. turn over such Boy by assigning the Indenture to any Master or Owner of a Ship, &c. for the remaining Time of his Apprenticeship, which Assignment must be registred by the Collectors aforesaid.

Every Master and Owner of a Ship, from thirty to fifty Tons, is obliged to take such an Apprentice; and if he refuses, he shall forfeit 10*l.* to the Poor of the Parish from whence the Boy was to be bound.

When the Apprentice is bound, he is to be sent to the Port to his Master, at the Charges of the Parish, <sup>When Boy is bound must be sent to the Port.</sup> in the same Manner as Vagrants, by Stat. 11 & 12 W. 3.

Two Justices, &c. near the Ports where any Vessel shall arrive, have Power to hear and determine all Complaints of hard Usage to such Apprentices, and to make such Orders, as they are enabled to do in any Case between Master and Servants.

The Collectors, at their Ports, are to keep a Register <sup>Collectors to keep Register.</sup> of the Names of Masters and Apprentices, and from what Parishes they came; and must transmit true Copies of such Register to the Quarter-Sessions, when required; and this they must do without Fee; and if they refuse, they forfeit 5*l.* to the Poor of the Parish from whence the Apprentice comes.

Such Apprentices are not to be Pressed for three <sup>Rogues and sturdy Beggars to be sent to Sea.</sup> Years next following the Date of their respective Indentures.

All lewd and disorderly Servants, and such Men and Boys as are Rogues, Vagabonds, and sturdy Beggars, shall be sent to Sea by Warrant from one Justice, directed to the Constable, who is to convey them to the next Town out of the County, into his Majesty's Service at Sea.

The Forfeitures in the Act are to be levied by Warrant from two Justices, &c. by Distress and Sale of the Goods of the Offender.

N. B. Casting away a Ship wilfully, or procuring the same to be done, is Felony without Clergy.

None but the Contractors with the principal Officers or Commissioners of the Navy Ordinance or Victualling Office, shall make any Stores of War, or Who are to Naval Stores, with the Marks used to the King's use the King's Stores, Marks,

Stores, or any Stores with the Broad Arrow, by Stamp, Brand, or otherwise, upon the Forfeiture of the Goods and 200*l.* with Costs of Suit; one Moiety to the King, the other to the Informer, to be recovered in the Courts at *Westminster*.

Like Forfeiture by Persons in whose Custody such Goods are found, &c.

The Penalty of personating Seamen, &c.

Personating Seamen, and fraudulently Receiving their Monies, Forging Letters of Attorney, Bills of Sale, Assignments, or Last Wills of Seamen, Personating the Wife's Relations or Creditors of Seamen, and taking Administration to them, Forging Letters of Attorney, Bills of Sale, or other Authorities in the Names of their Executors or Administrators, for the Receipt of Wages due to Seamen, their Aiders or Abettors, being convicted, &c. shall, besides other Penalties, forfeit 200*l.* as aforesaid, and be committed till paid.

Seaman's Will must not be in the same Deed with Letter of Attorney. Where Court is to take but 1*s.* for Administration to Seamen.

No Seamen's Will contained in the same Instrument with a Letter of Attorney, shall be good in Law

No Court or Person shall take more than One Shilling for the Seal, Writing, or Suing forth any Administration granted to the Wife or Children of any Seaman dying in Pay of the Navy, unless his Goods amount to 20*l.* the Person offending forfeits 10*l.* to the Party grieved. 9 & 10 *W. & M. c. 41.*

All the Powers in the aforesaid Act are revived and enforced by Stat. 1 *Geo. 1. c. 24.* and Justices, &c. may mitigate the Penalties of that Act, or in lieu thereof, may inflict some corporal Punishment, by whipping or by sending the Offender to some publick Work-house, to be kept to hard Labour for three Months or less.

Principal Officers of the Navy may cause Offenders to be apprehended.

Principal Officers of the Navy, may, by Warrant, cause Offenders to be apprehended for making Disturbances in any of the Yards, &c. at Pay-days or any other Occasions relating to the Naval Stores, and may punish them by Fine, not exceeding 20*s.* or by Imprisonment in the next Gaol, not exceeding one Week, or in the Hands of the Messengers attending them. The Officers may discharge such Fine and Imprisonment, if they think fit; or for Nonpayment of the Fine, may commit to the House of Correction, to be kept to hard Labour for two Months; the Fines to be paid to the Chest at *Chatham*, for the Use of maimed Seamen.

In Cases where greater Punishment is needful, the Officers may bind such Offenders to the Good Behaviour



our, and to appear at the next Assizes, or Quarter-And for Want Sessions, with or without Securities, and in Default of Security, may commit to the County Gaol, &c. of Security may commit them.

By Stat. 4 & 5 Ann. c. 19. no Master of a Ship shall be obliged to take an Apprentice, according to Stat. No Master of a Ship obliged to take a Boy under 13 Years old. 2 Ann. c. 6. under the Age of Thirteen, and unless of Health and Strength of Body. And Widows and Executors, and Administrators of such Master, shall have Power of Assigning such Apprentice to any other Master of a Ship who has not his Complement of Apprentices, according to the said Act, and of 43 E. c. 2.

No Person of Eighteen Years of Age shall be exempted from his Majesty's Sea-Service, who shall have been in Sea-Service before they bound themselves Apprentices.

If any Waterman, working between *Gravesend* and *Penalty if War* *Windsor* (being duly summoned by Notice in Writing, termen do not appear at Waterman's Hall on Summons.) within ten Days after, shall not appear before the Waterman's Company, to be sent to his Majesty's Fleet, the Person summoned being convicted before the Lord Mayor of London and Court of Aldermen, or two Justices of the City, and two Rulers of the said Company, shall suffer one Month's Imprisonment, and be disabled working on the *Thames* for two Years.

By Stat. 5 El. c. 5. no Fisherman, using the Sea, No Fishermen shall be taken to serve as a Mariner by the King's Sea to be Commission, but by the Choice of two Justices of Peace, next adjoining to the Place where he is taken.

By Stat. 11 Geo. 1. c. if an Owner, Master, &c. of if Mariner a Ship or Vessel, shall after 24th of *June 1725.* wil- cast away a Ship wilfully, it is Felony without Clergy. fully cast away, burn or destroy his Ship or Vessel, or procure the same to be done, with Design to pre- judice any Person that hath underwritten any Policy of Insurance thereon, or any Merchant, or the Owner of such Ship, he shall be adjudged a Felon, and suffer as in Cases of Felony, without Benefit of Clergy.

If any of these Offences shall be committed within the Body of any County of this Realm, they shall be tried in the same Courts as Felonies by the Laws are to be tried. And if any of these Offences shall be committed upon the High Seas, the same shall be tried before such Court, as by an Act made 28 H. 8. (for Pirates) is directed for Trying of Felonies done upon the High Seas.

## Servants. See Apprentices.

Two Justices may warn single Persons to go to Service.

**T**WO Justices may warn all single Persons under the Age of Thirty Years, to go to Service at a Time they shall limit; and any Woman above the Age of Twelve Years and under Forty, being unmarried, may by two Justices be compelled to go to Service; and if they refuse so to do, and continue to live idly, having no visible Estate, or a lawful Way to maintain themselves, they may be sent to the House of Correction, or bound over to the Sessions. 5 *El. c. 4.*

Persons having no Estates to be set to work.

Persons having no Lands, and such which are bred to no Trade to get a Livelihood, the Church-wardens and Overseers of the Poor of the Parish have Power to set them to work; and if they refuse to work, one Justice may send them to the House of Correction, as he may likewise such Persons which refuse to work for reasonable Wages.

Penalty if Labourers refuse to finish Work undertaken.

If any Labourers, having undertaken Work by the Great or Lump, shall depart from the same before it is finished (except it be where the Wages agreed on by the Master are refused Payment, where Leave is given by the Master, or where the Servant is taken into the King's Service, or shall have other lawful Excuse) they shall be committed for a Month without Bail, and forfeit 5*l.* to the Party grieved; to be recovered by Action of Debt, &c. 5 *Eliz. c. 4.*

How many Hours Labourers are to work by the Day.

Where Labourers work by the Day, they are to work from Five in the Morning till Seven at Night, from *Lady-day* till *Michaelmas*, and all the Rest of the Year from Twilight to Twilight; but in the Summer Half-Year they are to be allowed two Hours for Breakfast and Dinner; and from the Middle of *May* to the Middle of *August*, Half an Hour more for sleeping, and in the Winter an Hour and an Half only for Breakfast and Dinner is to be allowed. 5 *El. c. 4.*

Persons compellable to work at Harvest.

One Justice may order such as he thinks fit, to work at Harvest; and if any shall refuse so to do, he may put them in the Stocks for a Day and a Night: And Artificers may be compelled to work in Hay-

Time

Time and Harvest ; and if they refuse they will be liable to the same Penalties.

Labourers may go into other Counties to work in the Time of Harvest, having a Testimonial under the Hand and Seal of one Justice.

Justices in their *Easter-Sessions* have Power to assess the Wages of Artificers, Labourers, Servants, &c. yearly, and are to proclaim the same in the County ; but if there is no Alteration in the old Rates, then there is no Need of such Proclamation. Every Justice absenting at the Taxing of Wages, not having a reasonable Excuse, shall forfeit 10 l. 5 *El. c. 4* and 1 *Jac. 1. c. 6.*

If any Master shall give more Wages than shall be so assessed, he shall forfeit 5 l. and may be committed for ten Days, without Bail ; and the Servant which takes more Wages, being convicted before two Justices, shall be committed for twenty Days ; but a Master may reward a Servant as he pleases, so as it be not by Way of Contract upon the Retainer. 5 *El. c. 4.*

A Master may not discharge his Servant before the End of the Time agreed, without some reasonable Cause, of which a Justice of Peace must judge ; neither shall he put him away after the End of his Term, without giving a Quarter's Warning before two Witnesses, on Pain of forfeiting 40 s. And a Servant ought not to be discharged from his Service by Reason of Sicknefs, or any other Disability, by the Act of God ; and a Master is obliged to find Meat and Drink and other Necessaries for the Servant. 5 *El. c. 4.*

And where a Servant hired for a Year, shall depart before the Expiration of his Term, without Cause allowed by a Justice, or shall leave his Service after the Term ended, without giving a Quarter's Warning before two Justices ; as in the Case of the Master ; two Justices may commit him without Bail, till he give Security to serve the Time agreed. Or by Stat. 7 *Jac. 1. c. 4.* one Justice may send him to the House of Correction, there to be punished as an idle Person ; but both Master and Servant may part by Consent, and in that Case the Justices have nothing to do with it. *Dalt. 186.*

If a Covenant Servant hired for a Year, shall fall sick, and his Master turn him away, the Being in his Service in this Manner, is a Settlement in that Parish. *Style 168.*

And



Servant refusing to do his Work, is a departing in Law. None to hire a Servant for less than a Year.

And a Man may not turn away a Servant, or abate his Wages, on Account of Sicknes. *Dalt.* 187.

If a Servant shall refuse to do his Work, that is a Departure in Law, altho' he stay still with his Master. *Ibidem.*

No Man may retain a Servant for less than one whole Year, by the ancient Statutes; and therefore if a Man hire a Labourer, &c. to serve him generally, this Retainer is good for one Year, and he shall be paid the Wages assessed by the Justices in their Sessions.

If so hired Executors must pay his Wages after Master's Death.

If Servant quits his Service he loses his Wages.

Bind not to use one's Trade is void.

Any Person may use any Trade privately.

Master taking a Servant without Certificate, forfeits 5 l.

Penalty of Servants going away without a Testimonial.

If Servant above 18 Years old goes away with his Master's Goods, it is Felony.

And where a Servant is retained for a Year, according to the Statute, and the Master dieth within that Time, the Executor must pay the Wages. *Dalt.* 186.

If a Master putteth away his Servant, he must pay him his Wages to the Time he served; but if the Servant quitteth his Service before the End of the Time agreed, he shall forfeit all his Wages. *Ibid.*

Retainers or Promises of Payment of Wages, contrary to the Statute, and all Bonds, &c. for that Purpose, are void. And if a Man enters into Bond not to use his Trade, this Bond is void; but if he bind himself not to use his Trade in a particular Place or Town, that Bond is good. *Dalt.* 182.

No Man is prohibited at Common Law to use divers Trades; and any Person may use privately any Trade for the Maintenance of his Family; but such Person may not retain an Apprentice. 8 Co. 129.

A Master retaining a Servant in Husbandry, not having a Testimonial or Certificate from his Master living in the same County, he shall forfeit 5 l. *Dalt.* 186.

If a Servant depart without a Testimonial, he shall be committed, and if he does not procure one within twenty Days, he shall be punished as a Vagabond; and so he shall be, if he be taken with a Counterfeit Testimonial; but this is not much in Practice.

By Stat. 21 H. 8. c. 7. if a Servant above the Age of Eighteen Years, goes away with his Master's Goods delivered to him to keep, to the Value of 40s. with an Intent to steal or imbezel them, it is Felony; but this Statute doth not extend to Apprentices. And when a Master delivers a Bond to his Servant, who receives the Money, and goes away with it, or if he deliver Goods to his Servant to sell in a Market, which he doth, and runs away with the Money, these Cases are not within the Statute, because the Servant had not the Money by the immediate Delivery of the Master. *Dyer* 6. 3 *Inst.* 105.

By

By Stat. 12 *Ann. c. 7.* if any Servant or other Person purloins, embezzles, steals, or makes away his Master's Goods, &c. in the House or Out-house, though it be not broke open, to the Value of 40*s.* it is made Felony without Benefit of Clergy. But this does not extend to Apprentices under Fifteen Years old. 1 *Salk.* 380. *Noy* 105. *Mod. Cases* 99. 122. *Mod. Cases* 288.

By Stat. 12 *Ann. c. 23.* such as have no legal Settlement, or Vagrants, or common Beggars, for two Years past, (though formerly settled) or dangerous and incorrigible Rogues, within that Act, may be forced to serve Seven Years Apprenticeship to any that will take them, and may be afterwards sent to the Plantations; provided the Master give a Recognizance of 40*l.* not to sell them to any Alien; and any Justice may take such Recognizance, and must transmit it to the next Quarter-Sessions to be there filed.

The Church-wardens and Overseers, &c. may set him who hath no Lands of his own, or is not of some Trade or Mystery to get a Livelihood, to work; and if he refuse, one Justice may send him to the House of Correction, so he may those who refuse to work for reasonable Wages.

All Payments for Work done in the Woollen, Linen, Fustian, Cotton, and Iron Manufactures, must be in Current Money, and not in Cloth, Victuals, or other Commodities. And all the Wool delivered them to be wrought shall be first weighed, and the true Weight thereof declared. Stat. 1 *Ann. c. 16.* 12 *Geo. I.*

The Offender in either of these Cases, forfeits to the Labourer double the Value of what shall be due for his Work.

But if the Labourer shall be Guilty of any Fraud, or Fault in his Work, then he must answer to the Owner double the Damages by him sustained.

By Stat. 10 *Ann. c. 16.* Clothiers or others concerned in the Woollen Manufacture, shall make Payment in Money to the Persons employed, for all Work done in Relation thereto, and not (in lieu of Payment) impose or deliver any Sort of Goods or Wares for such Work; or for every Offence forfeit 20*s.* this Penalty is augmented to 40*s.* by 1 *Geo. I. c. 15.*

All Offences against 1 *Geo. I. c. 15.* (saving where Owner, &c. refuse Payment of the Forfeitures for Want of sufficient Length or Breadth in Admeasurement) must be prosecuted within forty Days after committed or discovered. 1 *Geo. I. c. 15.*

If a Woman Servant marrieth, she must serve out her Time; and if both Man and Wife agree to serve, they must perform the Agreement. *Dalt. 92.*

Indiſſment  
will not lie  
for enticing  
away a Ser-  
vant.

It was a Question whether an Indiſſment would lie for enticing a Servant or an Apprentice out of his Maſter's Service, and to carry away his Goods; for it is but a private Injury, and not in its Nature publick, and therefore an Action on the Caſe lies for enticing, but Treaſons will lie for taking him out of his actual Service. And the Court upon a Motion in Arreſt of Judgment was of that Opinion, that an Indiſſment would not lie. *Hil. 2. Ann.*

Juſtices to  
make Rates  
at Eaſter, and  
certify them in  
to Chancery,  
and muſt be  
proclaimed by  
Sheriff.

The Juſtices ought to certify in Chancery their Rates of Wages made at *Eaſter*, though they then but continue the ſame that were the Year before. *Dyer 265. Fenkins 235. Bridg. 118. Bowns and Wilkins.* Stat. of Wages pleaded to Retainer of a Shepherd, and that Statute as to Wages explained.

Action of Debt for Wages lies againſt an Executor, but that muſt be where one is retained, that is compellable to ſerve. *Moor. 698. Gomersal and Watkinſon. 1 Brownl. 62. 9 Co. 88. Pincheon's Caſe.* In an Action upon the Statute for Wages, Maſter cannot wage his Law.

Not binding  
till proclaimed.

The Wages of all Husbandmen, Artificers, Weavers, Labourers, Servants, and other Workmen whatſoever, by the Year, Month, Week, Day, or otherwiſe, with or without Meat and Drink, muſt be rated and ſettled by the Juſtices of Peace at their Quarter-Sessions next after *Eaſter*, or at a general Meeting, within ſix Weeks after *Eaſter*; and this the Sheriff is to proclaim, which being done, every Man is bound to obſerve them. But it ſeems they are not bound to this Rate on either Side, till it be proclaimed. *5 El. 4. 6 Jac. 1.*

Apprentices  
muſt not be  
diſcharged but  
by four Juſti-  
ces in Sessions.

None may put away his Apprentice himſelf, nor can he be diſcharged but by Order at the Quarter-Sessions, under the Hands and Seals of four Juſtices, *Quorum unus*, and that in the Sessions, and cannot be elſewhere. *5 El. c. 4.*

If a Servant come not according to Promise, or reſuſe to do his Work, though he ſtay with him, this is a Departure in Law.

Juſtices may  
award Capias  
againſt a Ser-  
vant going in  
to another  
Shire.

All Offences againſt *5 El.* may be puniſhed at the Quarter-Sessions, or Special Sessions. *5 El. 4. 31 El. 4.* Servant departing into another Shire, is indiſſed for it in the County whence he departed. The Juſtices of Peace



Peace may award a *Capias* to the Sheriff of that Shire whereunto he departed, returnable before themselves. *5 El. c. 4. Lamb. 52. 5.*

The Sufficiency of the Cause of the Master's putting away of his Servant, or the Servant's departing from his Master, within his Term, must be proved at the Quarter-Sessions. *Lamb. 610. 5 Eliz. c. 4.*

Servants assaulting Master, Mistress, Dame, or Overseer, are to be committed to Prison by two Justices for one Year or less, or to be bound over to the Sessions, there to receive such open Punishment as shall be thought convenient, Life and Member excepted. The said Offence being proved before the said Justices, by Confession of the said Servant, or by the Oath of two Witnesses. The Punishment of Servants assaulting Master, &c.

Any one Justice of Peace may licence, under his Hand and Seal, such Labourers as pass in Hay-harvest and Corn-harvest, from one County to another to work. One Justice may licence Labourers to seek work in Harvest.

Upon Complaint made to any one Justice of a Servant, Workman, or Labourer, making an Assault or Affray upon his Master, &c. he may bind the Offender to his Good Behaviour, and so to the next Sessions, and there he may be convicted and punished according to the Statute.

The Stat. *5 El. c. 4.* extends not to Serving-men, but only to Servants in Husbandry and Handycrafts. *Crompt. 185.*

Every one bound an Apprentice, according to that Statute, although under Age, yet is compellable to serve his Time out, as if he were of Age when he was bound. *5 El. c. 4.* How the Clause of Minors being bound, is to be understood.

But that is to be understood of a Compulsion by the Means prescribed by that Statute; for the Covenant is not good, so as to enable the Master to bring an Action upon it as was resolved. *Hill. 5 Car. 1. Cro. 129. Gilbert versus Fletcher.*

An Apprentice must be retained by Indenture, and by the Name of an Apprentice expressly; or else he is no Apprentice, though he be bound. *Crom. 1. p. 184. p. 15.* Apprentice must be retained by Indenture.

Every Justice of Peace may command vagrant Persons to Prison, if they will not serve.

If a Man retaineth another upon Condition, it is a Retainer on good Retainer. See *11 H. 4. 42. Br. 23.* so if one is retained to serve during his Life. *Br. 44. 2 H. 4 fol. 15.* Condition is good

The Master may discharge his Servant by Word, but an Apprentice cannot be discharged except it be by Word, but not Apprentice. Master may discharge his Servant by Word, but not Apprentice.

by Writing, for that an Apprentice cannot be but by Writing.

Justices of Peace shall meet twice in the Year, to enquire of the Breaches of the Statute 5 *El.* 4. And shall have five Shillings *per Diem* for their Wages. 5 *El.* 4.

It was the Opinion of my Lord *Coke*, that an Upholster is not a Trade within the Statute, but the later Opinions are otherwise. 1 *Roll. Rep.* 1, 2. *Bulst.* 186, 187. *Sid.* 361. 1 *Lev.* 243.

Barber and  
Salesmen are  
Trades within  
5 *El.* c. 4.

A Barber and a Salesman are Trades within the Stat. 5 *Eliz.* c. 4. adjudg'd on a Demurrer to the Indictment. *Raim.* 385.

But the Trade of a Merchant-Taylor is not within the Statute, tho' the Trade of a Brewer is. 2 *Cro.* 178. 8 *Rep.* 129. 1 *Sand.* 311. *Sid.* 427.

Indenture of  
Apprentices in  
London must  
be enrolled.

The Indentures of an Apprentice in *London* must be enrolled within a Year, &c. and if the Default is in the Master, then the Apprentice may sue them out, and shall be discharged; but if the Default is in the Apprentice for not coming before the Chamberlain, he shall not be discharged.

Bond to give  
a just Account  
is good.

A Bond given by an Apprentice to deliver up a just and true Account, is good, because 'tis for a collateral Matter, and not within the Words of the Statute 5 *El.* 4. which makes all Covenants and Bargains for having, taking or keeping an Apprentice, void.

Sessions have  
originally dis-  
charged many  
bad Appren-  
tices.

No Assign-  
ment of Ap-  
prentices but in  
London.

Gains of Ap-  
prentice is for  
his Master.

What Con-  
tracts between  
Journey-men  
Taylors are  
void.

The Justices cannot punish a bad Master, but they may discharge the Apprentice from him; but they may either punish or discharge a bad Apprentice. And the Sessions have originally discharged many bad Apprentices, without any previous Application to one Justice. *Dalt.* 190.

Adjudged, that the Master assigning, and the Apprentice himself consenting, will not make him an Apprentice to the Assignee within 5 *El.* c. 4. But by the Custom of *London*, he may be turned over to another. *Show. Rep.* 105.

Adjudg'd, that what an Apprentice gains is for the Use of his Master, tho' he is only an Apprentice *de facto*, and not actually bound by Writing. *Salk.* 68.

By 7 *Geo.* 1. c. 13. all Contracts between Journey-men Taylors for advancing their Wages, &c. are declared void; and if they enter into such Contract, Offender, on Oath of one Witness before two Justices, may be committed to the House of Correction, or to

Gaol, and kept to hard Labour for two Months, without Bail.

But the Prosecution must be within three Months after the Offence.

If a Man delivers Money to his Servant to keep, or Plate to his Butler, or a Horse to his Groom, or Sheep to his Shepherd, and such Servant goes away with them, this is Felony by the Common Law in that Servant, (for these Goods were always in the Master's Possession, and kept and used by the Servant to the Master's Behoof;) but yet there was much Difference of Opinions herein; for clearing whereof, the Stat. 21 H. 8. c. 7. which was made perpetual by Stat. 5 El. c. 10. provided, That all Servants of Eighteen Years of Age (other than Apprentices) to whom any Money, Goods or Chattels, &c. should be delivered by their Master or Mistress, to keep, of the Value of 40s. or above; if such Servant shall go away with, or imbezil, or convert to his own Use any such Money, Goods or Chattels of that Value, with Intent to steal the same, or to defraud his Master or Mistress thereof, it shall be Felony; but this must be prosecuted within one Year after the Offence. But if the Servant shall imbezil, or go away with any Goods of his Master's which were not delivered to him, this is Felony, tho' they be under the Value of Forty Shillings. *Dalt.* 496.

If one of my Servants delivers to another of my Servants Goods of mine (to the Value of 40s.) and he goes away therewith, or converteth them to his own Use, this is Felony within the Statute, for this shall be construed to be my Delivery.

If a Man delivers Goods to one to keep, and after retains the same Person in his Service, who after goeth away with those Goods, this is no Felony, by 21 H. 8. c. 7. because he was no Servant at the Time the Goods were delivered to him.

If my Receiver of my Rents receive Ten Pounds of my Tenants, and run away therewith, it is no Felony; for the Statute is (where the Master delivereth to keep, &c.)



### A Warrant to punish a Servant assaulking his Master.

5 Eliz. c. 4.

Essex. ff. **W** Hereas A. B. and C. D. of, &c. have this Day made Oath before me, that E. F. Servant or Workman to L. M. of, &c. did on, &c. last, assault and beat his said Master L. M. at, &c. against his Majesty's Peace, and contrary to the Statutes, &c. These are therefore to require you to apprehend the said E. F. and to bring him before me, with two sufficient Securities to be bound for his Appearance at the next Quarter-Sessions; and in the mean time to keep the Peace, or to convey him to the common Gaol of, &c. there to remain until he shall be thence legally discharged, &c. Given, &c.

### A Warrant against a Servant departing before the End of his Time.

5 Eliz. c. 4.  
Two Justices.

One Justice  
may allow the  
Cause of De-  
parture.

Essex. ff. **W** Hereas A. B. being lawfully hired and retained in the Service of C. D. of, &c. for the Space of one whole Year, is lately departed from his said Service without the Leave of his Master, and before the End of the said Term: These are therefore, in his Majesty's Name, to command you, &c. that you apprehend the said A. B. and bring him before us, or some other of his Majesty's Justices of Peace for this County, to find sufficient Sureties faithfully to serve his said Master according to the Agreement between them; and if he shall refuse so to do, that then you cause him to be conveyed to the common Gaol of the said County, there to remain till he shall find such Surety as aforesaid. Given, &c.

Or he may be sent to the House of Correction by this Mitimus.

### To the Keeper, &c.

7 Ja. 1. c. 4.

Essex. ff. **I** Send you herewith the Body of R. G. late of, &c. being an idle and disorderly Fellow, and one who will not continue in any Service, nor follow any honest Course of Life; and I require you hereby to receive the said R. G. into your Custody, and to keep him safely until

until he shall be from thence delivered by due Course of Law: And, in the mean time, to make him work, and to give him such moderate Correction as to you shall seem necessary; and that at the next Quarter-Sessions you give an Account what you have done concerning this Precept: And hereof sail not. Given under my Hand and Seal, &c.

A Warrant for Wages.

To the Constable, &c.

Essex. ff. **W** Hereas Complaint hath been made unto me by A. B. late Servant of C. D. of, &c. that he the said A. B. being lawfully hired by his said Master, did serve him for the Space of, &c. and that the said C. D. doth now refuse to pay the Wages which are justly due to his said Servant for the Time he hath served him: These are therefore to require you to bring the said C. D. before me, or some other Justice of Peace for this County, to answer the Premises, and that you give Notice to the said A. B. to be then and there present to make good his Complaint. Given under my Hand and Seal, &c.

A Warrant to levy 40 s. on a Master for putting away his Servant before the End of his Term, without a sufficient Cause, to be allowed by one Justice, or a Quarter's Warning, before the End of the Term; but then the Retainer must be either in the Arts or Mysteries mentioned in the Statute, as Baker, Brewer, Butcher, &c. or in Husbandry; for the Statute doth not seem to extend to common hired Servants, tho' the Practice may be otherwise.

To the Constable, &c.

Essex. ff. **W** Hereas it hath been duly proved upon Oath before us, that R. G. of, &c. Master, hath put away L. M. his Servant (being lawfully retained) before the End of the Term, agreed on between them,

\* Because the Party hath Liberty to prove by two Witnesses at the Sessions the Cause, &c. to save his Forfeitures, if the single Justice, or two of them, shall not allow the Cause out of Sessions.

them, contrary to the Statute in that Case made and provided: These are therefore to require you to levy the Sum of 40 s. forfeited by him for the said Offence, by Distress and Sale of the Goods of the said R. G. rendering unto him the Overplus. And we do hereby require you to bring the said \* 40 s. into Court at the next General Quarter-Sessions to be holden, &c. except the said R. G. shall in the mean time shew some reasonable and sufficient Cause, to be allowed before two Justices of Peace, or one at least, within the County aforesaid, for putting away his said Servant in manner as herein and hereby alledged: And hereof fail not. Given at the General Quarter-Sessions of the Peace held for the County aforesaid at L. &c.

### A Warrant for the Relief of a Servant out of Service.

To the Constable, &c.

Essex. ss. **W** Hereas I am informed that A. B. hath been lawfully hired, and served for one Year in the Parish of, &c. so that now he hath acquired a legal Settlement there: And whereas the said A. B. hath complained unto me, that he, being discharged from his late Master, cannot find himself a Service, and is thereby destitute of any Means to support or relieve himself, otherwise than by such Service or Labour, which he is willing to perform: These are therefore to require you, that, upon Receipt hereof, you set the said A. B. to work, and provide for him according to Law: And hereof fail not. Given under my Hand and Seal, &c.

### A Justice's Discharge of a Servant within the Time agreed on just Cause.

5 El. c. 4.  
One Justice.

Essex. ss. **W** Hereas A. B. of, &c. has this Day made Information before me, that C. D. who was hired by the said A. B. as a Servant, for the Term of, &c. hath lately absented from the Service of the said A. B. before the Term agreed on was expired, there being, &c. yet to come of the same, and without the Consent of the said A. B. or any just Occasion to do the same, (or, neglected the Business of the said A. B. to the Detriment of him the said A. B.)

On



On due Consideration whereof, and of the Hardship on the Part of the said A. B. I do, in Pursuance of the Acts of Parliament, hereby adjudge and allow the Cause and Matter aforesaid, to be sufficient to discharge the said C. D. from the Service of the said A. B. and the said A. B. from keeping and entertaining him; and do also hereby signify and declare, that the said C. D. is discharged accordingly. Given, &c.

The Defendant was indicted for using the Trade of a Taylor, not having serv'd as an Apprentice to it seven Years *infra regn' Angl' vel Walliæ*; and for this Reason it was quash'd; for if he had serv'd beyond Sea, or any where, it had been sufficient. P. 11. W. 3.

An Indictment on the Statute 21 H. 8. c. 7.

Essex. ff. **J**UR', &c. quod A. B. de L. in Com' pzed' Gen' nono die Augusti Anno regni, &c. in domo mansionali ipsius A. B. apud L. pzed' in Com' pzed' deliberavit cuidam D. E. de L. pzed' tunc servien' ipsius A. B. pzo uno anno integro retento ac etatis viginti annorum adtunc existen' decem libras de pecuniis numeratis de bonis ipsius A. B. ppozis ad intentionem quod idem D. E. eadem salbo custodiret ad usum pzed' A. B. tunc Magistri sui pzed' tamen D. E. dicto nono die Augusti anno supradicto (non existens tunc Apprenticius dicti A. B.) apud L. pzed' in com' pzed' a Magistro suo una cum pzed' decem libris dicti A. B. tunc Magistri sui maliciose & felonice decessit abiit & aufugit ea intentione ad furand' dict' decem libras contra fiduciam in eo per pzetat' A. B. tunc Magistrum suum reposit' ac contra pacem dicti Domini Regis Coron' & dignitat' suas & contra formam statuti, &c.

Indictment, for that the Defendant, at such a Day Indictment for and Place, quendam A. B. servum sive Apprenticium cu-enticing away jusdam C. D. extra domum shopam & servitium predict' an Apprentice, C. D. magistri sui discedere & seipsum absentare illicite quashed. causavit allexit & procuravit & quod adtunc & diversis diebus antea illicite seduxit eundem A. B. ad centum pendera Cocheneal valoris, &c. de bonis & catallis pzetat' C. D.

*C. D. extra domum & scopam suam illicite capiens & asportans & illa actura & ibid. injuste cepit recepit & habuit sciens bona & catalla predicta esse bona & catalla pred' C. D. & pred' A. B. esse servum pred' C. D.* The Defendant was found Guilty, but the Judgment was set aside, because Enticing an Apprentice to leave his Service, is a private Injury, for which an Indictment will not lie, but an Action on the Case, *per quod servitium amisit*. It is true an Enticing to imbezil Goods is indictable, but in this Case no Place was laid where the Goods were taken away.

Indictment for enticing an Apprentice to take away his Master's Goods. The Defendant was convicted; but adjudged that this Indictment was ill, because it did not set forth that the Apprentice did actually take away any Goods; for it is not sufficient to lay an Enticement without some Act done in Pursuance thereof. It is true it sets forth that the Defendant did receive the Goods, which implies that they were taken away, but a Charge in an Indictment must be direct and certain.

All unlawful  
Contracts  
among Wool-  
combers and  
Weavers void.

By Statute 12 Geo. 1. c. it is enacted that all Contracts, Covenants, or Agreements, and all By-laws, Ordinances or Orders, in unlawful Clubs and Societies, made between Persons brought up Wool-combers or Weavers, for regulating the Trade or settling the Prices of Goods, or for advancing their Wages, or lessening their usual Hours of Work, shall be illegal and void. And if any Person concerned in the Woollen Manufactures shall keep up any Contract or Combination, by that Act declared illegal, being convicted on Oath before any two or more Justices, on Information within three Calendar Months after the Offence done, shall be committed either to the House of Correction or Common Gaol, not exceeding three Months without Bail.

If such Persons  
depart their  
Service, to be  
sent to the  
House of Cor-  
rection.

And if any Person retained as a Wool-comber or Weaver shall depart from his Service before the End of the Term for which he shall be hired, or return his Work before it is finished, according to Agreement, unless for some reasonable Cause, he shall be committed to the House of Correction, not exceeding three Months. And if any hired Person shall wilfully damnify his Work, he shall forfeit to the Owner double the Value, or be committed to the House of Correction.

Clothiers must  
pay their  
Workfolks in  
Money.

Every Clothier shall pay the full Prices agreed on in Money, not in Goods; and any two Justices on Complaint,

Complaint, may summon the Party offending; and for Nonpayment of Wages, may issue their Warrant for ~~laying thereof by Distress~~; and for Want of Distress, may commit the Party to the Common Gaol for six Months, or till he pay the Wages. And if any Clothier shall pay the Persons employed by him, either in Goods or by Way of Truck, he shall forfeit 10*l*. ~~Moiety to the Informer, Moiety to the Party~~ grieved.

Persons aggrieved by Order may appeal to the next Quarter-Sessions, giving reasonable Notice of such Appeal; and if it appear reasonable Notice was not given, they shall adjourn the Appeal to the next Quarter-Sessions, and then finally determine the Matter, and may award reasonable Costs to either Party.

If any Person shall assault a Master Wool-comber or Weaver, whereby he shall receive any bodily Hurt, for not submitting to any illegal By-laws, or shall write or send any Letter or Message, threatening Hurt to a Master, or to burn or pull down his House, or to cut down his Trees, or maim his Cattel, for not complying with their Demands, being thereof convicted upon any Indictment to be found within twelve Calendar Months next after the Offence, he shall be adjudged Guilty of Felony, and be transported to America.

If any Person break into a Shop by Day or Night, to destroy Woollen Goods in the Loom, or any Tools employed in making thereof, or shall cut or destroy any such Goods in the Loom, or on the Rack, or shall destroy any Rack or Tools, he shall be adjudged a Felon, and suffer Death without Benefit of Clergy.

The Act shall extend to Combers of Jersey and Wool to Frame-work Knitters or Making of Stockings, and to all Persons concerned in any of the said Manufactures.

## Sections.



## Sessions.

What the Sessions is.

**T**HE Sessions of the Peace is a Court of Record, held before two or more Justices of the Peace, *Quorum unus*, for Execution of the Authority given them by their Commission and certain Acts of Parliament.

When to be held.

This Court by Stat. 2 H. 5. c. 4. is appointed to be kept four Times in a Year, *viz.* In the first Week after *Michaelmas*, the Week after *Epiphany*, the Week after *Easter*, and the Week after the Translation of *St. Thomas* the Martyr, (called *Becket*) which was on the 7th of *July*, and is generally held on the *Tuesday* in these Weeks.

In Middlesex may be held but twice in the Year.

But by 14 H. 6. c. 4. Justices of *Middlesex* are not obliged to keep Sessions above twice in a Year, but they may oftner, if they think fit; and by 42 H. 8. c. 43. Justices of the Counties Palatine of *Chester* and *Lancaster*, are not obliged to hold Sessions above twice a Year, *viz.* *Michaelmas* and *Easter*; and if they hold them but twice, yet those Times must be some of the Times mentioned in 2 H. 5. c. 4.

The Places of Keeping this Court are left to the Discretion of the Justices; but they ought not to appoint two Places for holding the Sessions at one and the same Time.

To this Court there is Freedom of Access.

To this Court there is a Freedom of Access, as in other Courts of Record; so that if any Person shall attend the Sessions to prefer a Bill of Indictment, or being obliged to appear on a Recognizance to save the Forfeiture, or on any other Business of the Sessions, he shall not be molested. And if he happen to be arrested, the Court may discharge him upon Examination and Oath of the Party himself. 1 Lev. 159.

Sessions may fine a Jury.

The Sessions may fine a Jury for not finding a Bill upon plain Evidence; and may fine Persons for striking or offering Violence in the Presence of the Court, whereby the peaceable Administration of Justice is interrupted. But Fines imposed in the Quarter-Sessions, may be mitigated in B. R. 1 vent. 37.

If any Thing be done in private Sessions, it ought to be returned to the Quarter-Sessions, *Styl.* 360. And the whole Sessions is but as one Day, *Palm.* 44.

All the Articles within the Commission of the Peace are both inquirable and determinable at any Special Sessions of the Peace : And also all such Statutes as use the Word Sessions indifferently, without adding General or Special. *Lamb. 535. 536.* though a private Sessions of the Peace is not said to be held for the County. *Styl. 359.*

Where treble Damages are given by Act of Parliament, the Justices are not to assess the Damages and then treble them ; but the Jury ought to find the Damages, and then the Justices are to treble them. *Cro. Car. 438. Bumstead's Case. Jones's Rep. 379. Rex ver. Lamfern.*

The Sessions for *Anglesey* is to be held for ever at *Beaumaris*, by 3 Ed. 6. *Dyer 135.*

By Stat. 1 Geo. 1. c. 25. the Justices of Peace of that County may now adjourn it from Time to Time to any Part of that County, for the Ease of those who are obliged to take the Oaths to the King, but to no other Purpose.

At this Court ought to attend all Bailiffs of Hundreds and Franchises, to give an Account of Sessions Process.

The Clerk of the Peace, to read the Indictments, to draw Process, and to enrol the Acts of the Court ; and as he is Deputy to the *Custos Rotulorum.*

The Constables of Hundreds.

The Coroners, as they are Parties to Exigents, and are a Sort of Conservators of the Peace, having in some Cases a Power to commit.

The Master of the House of Correction, with his Calendar of such Rogues who have been committed.

The Gaoler with the Prisoners, and to receive those who may be committed by the Court.

The Jurors who are returned by the Sheriff.

All Justices of the Peace, to certify their Recognizances and Examinations taken by them, and other Matters, &c. and if they neglect, they may be fin'd by B. R.

Those who are bound by Recognizance to answer, give Evidence, or prosecute.

The Sheriff or his Deputy, to receive the Fines set by the Court on Offenders, and return Jurors.

The Court of Sessions may hear and determine Trespasses against the publick Peace, and upon Conviction give Judgment of Fine, or otherwise, as the Case requires, and the Statutes direct.

They

All Articles in the Commission are inquirable in Sessions.

How Damages are to be assessed.

Sessions for Anglesey, where to be held.

Who ought to attend the Sessions.

May hear and determine Trespasses and Felonies.

## Sessions.

They may also hear and determine Felonies; for the Power which the Justices have is either by Acts of Parliament or by their Commission, and by both they have Authority to try Felons; for by 4 Ed. 3. c. 4. they have Power to hear and determine Felonies, and to inflict Punishment according to Law. And by the second Assignavimus in their Commission; which relates only to the Sessions, they have Authority to enquire by a Jury, &c. of all Felonies, &c. and likewise of several other Articles therein mentioned; and they may send out Process against the Offenders to bring them in and try them, and give Judgment according to Law.

But now only try Petit Larcenies, and send great Felonies to the Assize.

5 El. c. 14.  
Sessions have no Jurisdiction in Forgery, &c.

Judges and Serjeants not to attend Sessions.

King makes a new County; Justices of the old not to hold there Sessions there.

But though they have this Power, yet now the common Practice is to try Petty Larcenies at Sessions, and the Felons are of Course carried to the Assizes by the Gaoler.

But where a Statute creates a Crime, and appoints before whom it shall be tried, in such Case, if the Sessions be not named, they have no Jurisdiction; as in Forgery, upon the Statute of 5 Eliz. which provides that the Indictment shall be taken before Justices of Assize, and Justices of Oyer and Terminer; for though they have an express Clause in their Commission *ad audiendum & terminandum*, yet they cannot proceed in their Sessions against Offenders of this Nature, because there is another Commission of Oyer and Terminer, which is distinctly known by that Name. And this was adjudged in my Lord Somers's Case. 9 Rep. 118. b.

By Stat. 12 R. 2. c. 10. as also by Stat. 2 H. 5. c. 4. the Justices of one Bench and the other, and the Serjeants at Law, were exempted from appearing at Sessions.

Justices of Peace may keep their Sessions at which Place of the County they will, if they be not restrained, by Stat. Jenk. 212. pl. 49.

An Order made at Sessions of the Peace, is a Record. March 14.

An Order of Sessions may be good in part, and void in part. *Rex ver. Inhabitan. de Hilton.*

If the King should make a Place within a County, a County of it self, and give them all Privileges of the Jurisdiction, it will not be safe for the Justices of the ancient County to hold their Sessions there, except the King by his Letters Patents reserve such a Power. If a particular Corporation within the County hath its one Justice, yet the Justices for the County may



may hold their Sessions there, but cannot meddle with Matters arising within the said Corporation, until it be forfeited by *Quo Warranto*.

Sessions may commit a Justice for breaking the Peace. *Fenk. 174. pl. 47.*

A private Sessions of the Peace is not said to be held for the County. *Styl. 359.*

Strictness of Words not required in an Order of Sessions, though it ought in an Indictment. *1 Vent. 37. idem. 39.*

Order of Sessions final in Relation to a Settlement of the Poor, unless there be an Error in Form. *Idem 310.*

A Man may be indicted before Justices of Peace in their Sessions, for a Libel against a private Person, and may be fined; for it tends to a Breach of the Peace, being very often the Occasion of Duels. *Trin. 17 Car. 2. 1 Syd. 271.* A Man may be indicted at Sessions for a Libel against a private Man.

Where a Statute doth give a Power to Justices of Peace to hear and determine any Offence in general, and saith not where, there it must be done in, and cannot be done out of Sessions. But if it give them a Power to make a Rate or to do any Special Thing, and say not where, there they may do it in or out of the Sessions. *2 Inst. 703. 704.*

The Justices of Peace cannot (out of Sessions) punish Petty Larceny by their Discretion, (as some have thought) but must bind the Offender over, and they must be tried and discharged at Sessions. *Dalt. c. 101.*

Sessions held without Summons are good; but then none shall lose any Thing for Default of appearing. *Lamb. 380. 381.*

Summons of the Sessions is usually by Precept, written to the Sheriff, and by him to be returned at the Sessions. *Lamb. 381.*

Precept for summoning the Sessions may be made by any two Justices of Peace, one being of the *Quorum*, but not the *Custos Rotulorum* alone: And Summons cannot be discharged by *Superfedeas* of all the other Justices, but by *Superfedeas* out of the Chancery. *Quorum 1. Lamb. 382. 383.* Precept to summon Sessions may be made by any two Justices.

Sessions held by one Justice of Peace is not good, although it were summoned by two, and filed by their Names, but by two sufficient Justices Warrant (*Quorum unus, &c.*) under Seal. Though held by one Justice, not good.

The Summons is good, though made in the Name of Three.

The Easter Sessions by 33 H. 8. c. 10. are to be holden the Tuesday next after Low-Sunday. *Lamb. 605.*

Though the Place where Sessions are to be holden is arbitrary, yet if they are summoned to be kept in one Place, and hold it then in another, without timely Notice of their Alteration of such Appointment, it is punishable in them; but then it must be within the County; and in such Case there can be no Amerciament for Default of Appearance. *Lamb.* 383. 384. *Dalt.* 531.

How Jurors  
not appearing  
are to be pu-  
nished.

Jurors not appearing according to Summons, are punishable by Loss of Issues returned in the Estreats. *Dalt.* 534.

Summons for  
Special S. s-  
ions how.

The Justices of Peace, if Need require, may keep a Special Sessions by Virtue of their Commission, or by the Stat. 2 H. 5. c. 4. *Lamb.* 623.

Summons of a Special Sessions is, for the most part, for some Special Inquiry, and not for the general Service of the Commission. *Lamb.* 623.

What Thing  
may there be  
given in  
Charge.

All Matters within the Commission or Statutes may at a Special Sessions of the Peace be given in Charge; yet they are at Liberty to give in Charge, either all or any of them. *Lamb.* 623. 624.

Two Justices  
Precept for  
Sessions can-  
not be Superse-  
ded but by the  
King.

If two Justices of the Peace (one being of the *Quorum*) make a Precept to the Sheriff for the holding a Sessions at such a Place and Day, and to return a Jury before them; other Justices cannot by their *Superfedeas* to the Sheriff inhibit him; *Cro.* 122. but the King by his Writ of *Superfedeas* may discharge it. *Ibidem.*

Indictments are many Times tried the same Sessions, wherein the Person was indicted; nay, often the same Day before Justices of Gaol-Delivery, or Justices of Oyer and Terminer; 1 *Cro.* 315. 438. 448. *Dalt.* 537.

But in Cases of Felony, upon Cause shewn to the Court, it seems very reasonable to defer it to the next Sessions, it being so generally in an Indictment of Nuisance; and Life more to be valued and favoured, &c. *Dalt.* 537.

Some Things  
may be done  
at any Q. S-  
sions, some  
at particular  
ones.

Some Things cannot be done by Justices of Peace, but at the Sessions, and some Things but at such a particular Sessions. *Dalt.* 537.

Of the first Sort are, the Discharge of Apprentices ill used; Badgers licensed; Officers sworn (after the Sacrament received proved) and declaring against Transubstantiation, according to 25 *Car.* 2. *Dalt.* 538.

Of the second Sort are, Taking Accounts of Treasurers for maimed Soldiers and for charitable Uses,

&c.

*3 Jac. 43 El.* The Rates of Wages are set in Easter-Sessions, or in six Weeks after. *Dalt. 538.*

Making Orders in the Chamber after Adjournment of Sessions, is so far from being justifiable, that it is punishable. *Vid. Pidgeon's Case, 1 Cro. 341. 350.* Making Orders at Chamber a bad Practice.

The same Sessions may alter their own Orders, but then the first Order must be set aside, and the second entered. *6 Mod. 287.*

They have Power only to quash or affirm, but not to suspend or supersede an original Order made by two Justices to remove a poor Person. *2 Salk. 472.*

Justices at Quarter-Sessions, or the major Part of them, may make Orders for the erecting one or more Houses of Correction, and for providing a Stock and Things necessary; and for Punishment of Offenders as they shall think fit, from Time to Time. *29 Eliz. cap. 4.* Justices at Sessions may make Orders about House of Correction.

Sessions may appoint Rates for passing Vagrants, and may make Orders, and raise Money quarterly, to be paid to the High Constables who are answerable for it, and to pay to the Petty Constables what the Justices shall allow in their Certificates, &c. which, together with the Receipts of what is therein allowed, and taken by the High Constables, they may discount with the Treasurer of the County Stock. *Dalt. 310.*

The Sessions likewise to which Passes are transmitted, may enquire of Defaults of Officers, in permitting or encouraging Escapes, and punish the same. And may punish Defaults of Officers.

Justices of Peace (not concerned in making or selling Salt) at every *Easter* and *Michaelmas* Sessions, shall settle the Prices of Salt for the next Half Year, and none to sell above those Prices, under Penalty of *5 l.* and Forfeiture of double the Value. May settle the Price of Salt.

*Mr. Lambert* tells us in his *19th Ch. p. 569.* that In some Counties the Manner is, in some Countries, to summon yearly Six standing Sessions of the Peace, in others Eight, in others Twelve or Sixteen, and in others otherwise. Sessions yearly, in some more. All which is done chiefly upon Pretence to ease the Inhabitants of the County, for whom it would otherwise be very painful to travel so often and far from all Parts of the Shire to any one Place of the same. *Lamb. 569.*

And therefore such as do summon Six or Eight Sessions, do use to summon all the whole Shire to a County Court, and to the Residue they call only such Parts of the Shire as they do there specially appoint. But yet so that (upon the Reckoning) each Corner of the County giveth Attendance at Four several Sessions. How that is ordered.



And it is law-  
ful that

sions, which also saith out accordingly in those Shires where they have Twelve or Sixteen Sessions.

For albeit they do not at any one Time summon the whole Shire to any one Place (as the others do); yet dividing their Shire into three or four Parts, and keeping four several Sessions in each of those Parts, they also as well as the other do serve their whole County with four several Sitzings. And therefore (in his Opinion) although none of these do follow the precise Letter of the Law, (which requireth but only four Quarter-Sessions in any Shire) yet every of them draws near to the true Meaning of the Law, which looks for nothing else but that the Court of these Sessions should yearly be four Times opened for the whole County. *Lamb. 569.*

Penalties of  
Justices not  
certifying, &c.

If a Justice of Peace having taken a Recognizance for an Alehouse, do not certify it at the next Quarter-Sessions, he forfeits five Marks, by 5 *Ed. 6. c. 25. Lamb. 599.*

The next Justice as does not certify at the next general Sessions of the Peace, such Presentments as the Overseers of the Highways have before presented unto him, shall loose 5 *l.* for every Default, by 2 & 3 *P. & M.*

Penalties of  
not meeting at  
Easter-Sessions.

If any Justice without lawful Cause do not assemble at the Easter-Sessions, to rate the Wages of Servants, he shall lose 10 *l.* to the King. *Ibid.*

Fifteen Days  
between the  
Telle and Re-  
turn of Pre-  
cept.

The Proclamation mentioned 4 *H. 7. c. 12.* shall be read every Quarter-Sessions on Pain of 20 *s.* for every Justice present. To the End the Sheriff may have sufficient Time to proclaim the Sessions, to summon and return the several Juries, and to warn all Officers and others that have Business there, to attend at Sessions: The Precept should bear *Fifteen Days* before the Return, and ought forthwith to be delivered to the Sheriff.

It is usually under the Hands and Seals of two or more Justices of Peace, *Quorum unus*, and runs thus:

The Precept.

**J.** B. & J. S. Tr. duo Justic' Dni Regis ad pa-  
rem in Com' E. conferband' ne non ad dibers'  
Felon' Transgr' & alia malefacta in dicto Com'  
perpetrat' audiendo & terminando assign' Un' ejusdem  
Com' salut'. Et parte dicti Com' Regis tibi pre-  
cipimus quod non omittas propter aliquam libertat'  
in balliva tua quin eam ingrediaris & ven' fac' cor' nobis  
vel locis nostris Justic' pacis, &c. (scilicet die, &c.)  
pro' factu' apud E. in Com' p'ced' tam 24 probos  
& 16

& legales homines de corpore Com' tui (tam infra libertates quam extra) quos quilibet habeat 40 s. terrarum & tenement' liber' p' an' ad minus ad inquirend' tunc & ibid. sup' his que ex parte dicti D'ni Regis eis injunguntur. Scire facias etiam omnia bus Corpn' Com' nri Beneschal' Constab. subconstab. ballivis libertat' infra hundred' & libertates p'ed' quod sint tunc ibi ad faciend' & pimplend' ea que ratione officioz' suoz' facienda fuerint. Proclamari p'terea facias p' totam balliviam tuam (in locis idoneis) p'edict' Session' pacis ad diem & locum p'ed' fore tenend'. Et tu ipse tunc sis ibid. ad faciend' & exercend' ea que ad officium tuum p'inent. Et habeas ibi tunc tam nomine Jur' Corpn' Beneschal' Constab. subconstab. & ballivoz' p'ed' quam hoc p'cept' Dat' sub sigillis nostris apud D. in Com' p'edict' 16 die Mar. Anno Regni d'ni Dom' nostri Regis, &c.

When the Sheriff has received this Precept, he must direct several Warrants to the several Bailiffs of Liberties, and Bailiffs of Hundreds, containing in them the whole Substance of this Precept.

Then the Sheriff makes his Return of the Summons to the Sessions in this Manner.

Sheriff's Return of Precept.

Executio istius brevis patet in quibusdam schedulis huic brevi annex'. J. B. Br. Vic.

To this are annexed divers Panels fairly ingrossed in Parchment, containing the Names of the Jurors, &c.

The Justices being met, the Course is with three Oyes's to proclaim the Sessions; and then the Commission is read, which done, the Constables are call'd, &c. and one or more Grand Juries for Presentment, who being sworn, the Charge is given: Then they call the Recognizances, especially such as are to prosecute and give Evidence, that so Bills may be drawn and prepared, which being ready, the Parties bound over are sworn to give Evidence, and they are sent to the Jury to give their Evidence to them; but in difficult Cases, the Evidence is given in open Court.

The Method of holding the Sessions.

While the Jury is absent to consider of the Bills, the Course is to hear Motions touching Settlement of poor Persons, and to call Persons bound to the Peace or Good Behaviour. But such are not to be discharged before the End of the Sessions, for fear lest any

What Mat-  
ters are inqui-  
rable at Ses-  
sions.

come to prefer Bills against them, or with other Com-  
plaint, and they should be gone.

It would be to enlarge too much to set forth the  
Charge at large; I shall therefore only mention those  
Things and Offences which by particular Statutes  
are inquirable, and may and ought to be prosecuted  
in this Court, viz.

Affrays, Those who make them.

Alehouse-Keepers, Whether they have forfeited  
their Recognizances. 5 & 6 Ed. 6. c. 25.

Ale, Selling it to an unlicensed Alehouse-Keeper. 4  
Jac. 1. c. 4.

Ale, Selling it without Licence. *Ibid.*

Apprentices, Taking them otherwise than is limited  
by Stat. 5 Eliz. c. 4. except in London and Norwich.

Artificers, Persons contracting with them to go out  
of the Kingdom. 5 Geo. 1. c. 27.

Affaults, Those who make them.

Badgers offending against 5 El. c. 12. without Li-  
cense.

Bailiff taking more than 4d. for an Arrest.

Bakers offending against 8 Ann. c. 18.

Barretors.

Bastards to do all Things in Cases of Bastardy, as  
Justices of Peace in their several Counties. 18 El. c. 3.

Seizing Goods and Lands of their Parents.

13 & 14 Car. 2. 5 Geo. 1. c. 8.

Bawdy-House-Keepers may be here punished.

Bridges, upon the Stat. 21 H. 8. c. 5. 1 Ann. c. 18.

Buggery. 25 H. 8. c. 6.

Bushel sealed. 11 H. 6. c. 8.

Butchers. 22 & 23 Car. 2. c. 19. 1 Jac. 1. c. 22.

Butter. 21 Jac. 1. c. 22. 13 & 14 Car. 2. c. 26.

Buttons. 8 Ann. c. 6.

Carriage of Goods, Prices thereof. 3 & 4 W. &  
M. c. 12.

Cattle, Buying and Selling contrary to 22 & 23 Car.  
2. c. 10.

Church, not coming thither for the Space of a  
Month. 5 & 6 Ed. 6. c. 1. 23 El. c. 1. 29 El. c. 6. 31

El. c. 1. 1 El. c. 1. 5 El. c. 1. 12 Ann. c. 7.

Church and Churchyard, striking there with Wea-  
pon. 5 & 6 Ed. 6. c. 4.

Clothes unlawfully stretched with Ropes, &c. 39  
El. c. 20. 5 El. c. 4. 10 Ann. c. 17.

Coachmen and Chairmen. 9 Ann. c. 23.

Common Prayer, not using or abusing it. 23 Eliz.  
cap. 2.

Constit



- Conspiracy of Butchers, Bakers, Brewers, &c. 2  
 & 3 Ed. 6. c. 13.  
 Conies, Good Behaviour for killing them. 3 Fac  
 1. c. 13.  
 Licencing or Prohibiting the Transportation.  
 13 El. c. 13.  
 Corn } Foreign Imported. 1 Fac. 1. c. 19.  
 Transporting into Scotland. 1 & 2 P. & M. c.  
 4. 7 Fac. 1. c. 4.  
 Correction-Houses, Order for erecting of them. 39  
 El. c. 4. 7 Fac. 1. c. 4.  
 Coroner, not doing his Duty. 1 H. 8. c. 7.  
 Cottages, Erecting them contrary to 31 El. c. 7.  
 Counterfeit Letters, and getting Money by them.  
 33 H. 8. c. 1.  
 Curriers. 1 Fac. 1. c. 22. 4 Fac. 1. c. 6.  
 Customs. 13 & 14 Car. 2. c. 11.  
 Dissenters keeping Servants not coming to Church.  
 3 Fac. 1. c. 4.  
 Escape of Felons. 1 R. 3. c. 3.  
 Estreats of Sheriffs, Controlling them by Justices.  
 11 H. 7. c. 15.  
 Pheasants, Taking them in the Night-Time with  
 Nets, &c. 23 El. c. 10.  
 Fairs or Markets not appointing Toll-takers, &c.  
 2 & 3 P. & M. c. 7.  
 Fish, Destroying them by Engines. 17 R. 2. c. 9.  
 1 El. c. 17. 30 Car. 2. c. 9. 5 El. c. 21.  
 Forging Deeds. 5 El. c. 14.  
 Forestalling, Regrating, and Ingrossing. 5 & 6 Ed.  
 6. c. 14.  
 Game, Taking it with Engines in another Man's  
 Ground. 11 H. 7. c. 17. 23 Eliz. c. 10.  
 Gaming. 33 H. 8. c. 9.  
 Gaols. 11 & 12 W. 3. c. 19. 10 Ann. c. 14. 6 Geo.  
 cap. 19.  
 Gunpowder. 5 Geo. c. 26.  
 Hides, Butchers gashing them, &c. 1 Fac. 1. c. 22.  
 Highways. 2 & 3 P. & M. c. 8. 5 El. c. 13. 3 & 4  
 W. & M. c. 12. 2 & 3 W. & M. c. 8. 1 Geo. 1. c. 11.  
 1 Geo. 1. c. 52.  
 Hunting disguised in the Night. 1 H. 7. c. 7. 9 Geo.  
 1. c. 22.  
 Hawking or Hunting in standing Corn. 23 El. c. 10.  
 Stoned, feeding on Commons above two  
 Years old, and not Fifteen Hands high. 32 H.  
 8. c. 13.  
 Horses } Property not altered unless tolled. 2 & 3  
 P. & M. c. 7.

- Jesuits, and those who harbour them. 27 *El. c. 2.*  
 Information exhibited by Informer in proper Per-  
 son. 18 *El. c. 5.*  
 Innkeepers selling Victuals at unreasonable Prices. 21 *Jac. 1. c. 21.*  
 Jurors, Levying Issues lost by them. 27 *Eliz. c. 7.*  
 39 *El. c. 18.* 7 & 8 *W. 3. c. 32.* 3 & 4 *Ann. c. 18.* 10  
*Ann. c. 14.*  
 Leather. 1 *Jac. 1. c. 22.*  
 Libels.  
 Linen made deceitfully. 1 *El. c. 12.*  
 Malt. 2 & 3 *Ed. 6. c. 12.* 39 *El. c. 16.*  
 Marrying without Licence. 6 & 7 *W. 3. c. 6.*  
 Mals, Saying it. 23 *El. c. 1.*  
 Master and Apprentice discharging. 5 *El. c. 4.*  
 Mats. 5 & 6 *Ed. 6. c. 24.*  
 Money false, Concerning it. 13 *H. 5. c. 7.* 14 *H. 7.*  
*cap. 5.*  
 Mols-Troopers, To suppress them. 29 & 30 *Car. 2.*  
*cap. 2.*  
 News false, Telling it. 2 *Ri. 2. c. 11.* 2 *Ri. 2. c. 12.*  
 1 & 2 *P. & M. c. 3.*  
 Oaths. 1 *Geo. 1. c. 15.* 10 *Ann. c. 2.*  
 Oak Trees. 1 *Jac. 1. c. 22.*  
 Petition. 13 *Car. 2. c. 5.*  
 Perjury upon 5 *El. c. 9.* 29 *El. c. 5.*  
 Poor. 43 *El. c. 2.* 8 & 9 *W. 3. c. 30.* 9 *Geo. 1. c. 7.*  
 Prisoners } Tax made for relieving them. 14 *El.*  
 } *c. 51.* 7 *Jac. 1. c. 25.* 19 *Car. 2. c. 11.*  
 Preachers, Disturbing of them. 1 *M. c. 3.*  
 Prophecies, false and fantastical. 5 *El. c. 15.*  
 Reculants. 3 *Jac. 1. c. 4.* 11 *W. 3. c. 3.* 1 *Geo. 1. c. 35.*  
 The Stat. 3 *Eliz.* against maintaining the  
 Pope's Jurisdiction, to be openly read  
 by the Clerk of the Peace every Quar-  
 ter-Sessions. 5 *El. c. 1.*  
 Riots, Routs.  
 Rogues incorrigible, convicted, may transport them.  
 13 & 14 *Car. 2. c. 12.* 12 *Ann. c. 23.*  
 Branding them. 1 *Jac. 1. c. 7.*  
 Banished and returning without Licence.  
 39 *El. c. 2.*  
 Sacrament, Abusing it. 5 & 6 *Ed. 6. c. 1.* *El. c. 1. 3.* *Jac.*  
*1. c. 4.*  
 Salt, To set the Price of, and to certify for Repay-  
 ment of Duty. 12 *Ann. c. 2.*  
 Scavengers, To appoint them. 1 *Geo. 1. c. 48.*  
 Servants assaulting Master. 5 *El. c. 4.*

Sewers, Commissioners of Sewers, to swear them. 23 H. 8. c. 3.

Sheep, Keeping above 120, or 10 Beasts, &c. 2 & 3 P. & M. c. 3. 25 H. 8. c. 13. 8 El. c. 3.

Sheriffs, Under-Sheriffs, &c. acting contrary to 23 H. 6. c. 19.

Acting in their Offices before Sworn. 27 El. c. 12. 11 H. 7. c. 15. 10 Ann. c. 23.

Shoemakers not acting according to 1 Jac. 1. c. 22.

Silk-Thrower, Exercising the Trade without Serving Seven Years to it. 13 & 14 Car. 2. c. 15.

Soldier listed, Departing without Licence. 7 H. 7. c. 1. 2 & 3 Ed. 6. c. 2.

Commanded to muster, absenting himself without lawful Excuse. 4 & 5 P. & M. c. 3.

Persons authorised to levy Soldiers or make Must-  
ers, taking any Reward to discharge or spare any  
from the Service. 4 & 5 P. & M. c. 3.

Soldiers maimed, Relieving them by taxing Parishes,  
&c. 43 Eliz. c. 3.

Soldiers wandering, are Felons. 39 El. c. 27.

Officers not giving Notice to Innkeepers, &c. 12 Ann. c. 4.

Tanner swearing. 10 Ann. c. 2. 1 Geo. 1. c. 15.

Persons using the Trade of a Tanner. 1 Jac.  
1. c. 22.

Tile, Making and Selling. 17 E. 4. c. 4. 12 Geo.  
1. cap.

Tobacco planted contrary to 22 & 23 Car. 2. c. 26.

Toll-Book, Whether kept by the Owner of Fair,  
&c. 2 & 3 P. & M. c. 7.

Tithes. 7 & 8 W. 3. c. 34. & 4 Ann.

Victuallers about limiting their Gains, and punish-  
ing them. 2 Ed. 6. c. 15.

Under-Sheriff. *Vid. supra.*

Usury on the Stat. 13 El. c. 8.

Vagrants, to appoint Rates for passing and convey-  
ing them. 12 Ann. c. 23.

Wages of Labourers. 5 El. c. 4.

Watches on Sea-Coasts. 5 H. 4. c. 3.

Weights and Measures. 1 H. 5. c. 10. 9 H. 5. c. 9.  
1 H. 7. c. 4. 11 H. 7. c. 4. 8 H. 6. c. 5. 11 H. 6. c. 2.  
1 H. 7. c. 4. 11 H. 7. c. 4. 22 & 23 Car. 2. c. 8.

Wine, Selling it without Licence. 7 Ed. 6. c. 5. 12  
Car. 2.

In too little Measure. 2 H. 6. c. 11. 2 W.  
& M. c. 14.

X 4 Wool



Wool, Conveying it from Place to Place. 12 Car. 2. c. 32. 13 & 14 Car. 2. c. 18. 7 & 8 W. 3. c. 28. 3 Geo. 1. c. 21.

The Method  
of Proceeding  
after the  
Charge is gi-  
ven.

When the Charge is given, the Clerk of the Peace shall distinctly read, with an audible Voice in open Court, all such Statutes as are now in Force, and appointed to be publickly read or proclaimed at the general Quarter-Sessions; as the Statutes 4 H. 7. c. 12. 33 H. 8. c. 9. &c.

Then every Parish shall be rated towards the Relief of Hospitals, King's Bench and Marshalls, and Alms-Houses in the County, Stat. 43 El. c. 2. also towards the Relief of Prisoners in the common Gaol. Stat. 14 El. c. 5.

In Michaelmas Sessions the Court shall nominate two Justices of Peace to take a View of the Sheriffs Books of Estreats. 11 H. 7. c. 15.

Then the chief Constables of Hundreds and the Petty Constables shall be sworn.

When the  
Grand Jury  
have found  
any Bills, the  
Method of  
trying Prison-  
ers.

As soon as the Grand Jury have found any Bills, and appear with them in Court, it is usual then to proceed to the Trial of those Prisoners against whom the Bills are found for Petty Larceny, &c. for Grand Larcenies are (as is said before) sent to the Assizes.

But the Trial of Prisoners and the Proceedings thereupon are in this Manner: The Gaoler is called to set his Prisoners to the Bar; and the Crier having made a Bar, one of the Prisoners is called to by the Clerk of the Peace, or his Deputy, A. B. *hold up thy Hand, thou standest indicted by the Name of A. B. &c. reciting the whole Indictment in English*; which done, *How sayest thou A. B. art thou Guilty of this Felony, or, &c. whereof thou standest indicted, or not Guilty?* If he say Guilty, the Confession is recorded, and he set aside till Judgment: If he says Not guilty, the Clerk says *Culp. prout*, How wilt thou be tried; he answers, By God and my Country; but if he stands mute, he shall not be put to his *peine fort & dure*, as in Case of Grand-Larceny; for that the Stat. of Westminster extends not to Petit Larcenies; but Judgment shall be entred against him by *nihil dicit*. Co. 2 Inst. 177. And it is also the Course to enter Judgment by *nihil dicit*, in Case of a *Premunire*; for otherwise, by the Parties Contempt, the King shall lose the Forfeiture of his Goods, in Case of Petit Larceny; and Lands and Goods, in Case of a *Premunire*.

Co. 2 Inst. 177.

In like Manner proceed to arraign the rest of the Prisoners, and they are severally called upon to plead, &c. When

When so many Prisoners are arraigned, as may be conveniently tried by a Petty Jury at one Time, the Prosecutors are called on their Recognizance to give Evidence; then the Jury are called upon their Panel thus; You good Men who are returned to inquire between your Sovereign Lord the King and the Prisoners at the Bar, answer to your Names and save your Fines; which done, and a Jury appear, Proclamation is made, If any can inform his Majesty's Justice of Peace, the King's Serjeant, the King's Attorney, or this Inquest now to be taken between our Sovereign Lord the King and the Prisoners at the Bar, of any Felony or other Misdemeanour committed or done by the Prisoners at the Bar, or any of them; let them come forth and they shall be heard; for the Prisoners now stand at the Bar upon their Deliverance: And all Persons bound by Recognizance to give Evidence against any of the Prisoners at the Bar, let them come forth and give their Evidence, or else they forfeit their Recognizances. Then the Clerk says to the Prisoner, the Persons who have been called, and have now appeared, are to pass upon your Trial; and if you will challenge them or any of them, you must challenge them as they come to the Book, to be sworn, and before they are sworn, and you shall be heard. Then the Crier calls the Foreman of the Jury, and says to him, Lay your Hand upon the Book, and look upon the Prisoner, *You shall well and truly try and true Deliverance make between our Sovereign Lord the King and the Prisoner, or Prisoners at the Bar, whom you shall have in Charge; and a true Verdict give according to your Evidence.* So help you God. Then swear the second, and so on to Twelve; then the Clerk says, Look upon the Prisoner you who are sworn, and hearken to his Charge, *He stands indicted by the Name of A. B. for that he, &c.* the Prisoner. and so recite the whole Indictment; and then goes on and says, To which Indictment he hath pleaded Not guilty; and for his Trial hath put himself upon God and his Country, which Country Ye are; so that your Charge is to enquire whether he be Guilty of the Felony, &c. whereof he stands indicted, or Not guilty. If you find him Guilty, you shall enquire what Goods and Chattels he had at the Time of the Felony committed, or at any Time since: If you find him Not guilty, then you shall enquire if he did fly for the same; and then you shall enquire what Goods and Chattels he had at the Time when he did so fly for the same, or at any Time since. If you find him Not guilty,

guilty, nor that he did fly for the same, then you must say so and no more, and hear your Evidence.

Then the Witnesses are called and sworn thus:

Witnesses  
Oath.

The Method  
of Proceeding  
after the  
Examination  
of the  
Witnesses.

*The Evidence you shall give to the Court and the Jury on the Behalf of our Sovereign Lord the King, against the Prisoner at the Bar, shall be the Truth, the whole Truth, and nothing but the Truth. So help you God.*

When all the Witnesses for the King have been examined, then if the Prisoner desires that any Witnesses should be examined for him, they must be examined also. When the Prisoner has done, and has been heard all he has to say in his Defence, the Evidence is summ'd up by the Chairman to the Jury; and then if the Jury cannot agree on their Verdict at the Bar, a Bailiff must be sworn to keep the Jury, thus:

Oath of Bailiff.

When the  
Grand Jury  
have found  
any Bills, the  
Manner of  
keeping Prison-  
ers.

Just to the

The Verdict.

After the  
Verdict is  
found.

Judgment.

*You shall well and truly keep every Person sworn of this Inquest together, in some private and convenient Room, without Meat, Drink, Lodging, or Fire, Candle excepted. You shall not suffer any Person whatsoever, to speak to them or any of them, neither shall you yourself speak to them or any of them, until such Time as they are agreed of their Verdict, unless it be to ask them whether they are agreed of their Verdict or no, without Leave of the Court. So help you God.*

When the Petty Jury are agreed of their Verdict and are come back, the Prisoner is again set to the Bar, and the Clerk says, Gentlemen of the Jury, are you agreed on your Verdict: If they say Yes, then he says, Who shall say for you: They answer, Our Foreman. Then the Clerk says, Look upon the Prisoner, Gentlemen, how say you, Is A. B. Guilty of the Felony (or as the Case is) whereof he stands indicted, or not Guilty? If they say Not guilty, bid him down upon his Knees, and say God bless the King and this Honourable Bench. If they say Guilty, then the Clerk records the Verdict, and says to the Jury, Harken to your Verdict, as the Court has recorded it; Ye say that A. B. is Not guilty of the Felony (or as the Case is) whereof he stands indicted, and so ye say all. Or ye say that A. B. is Guilty of the Felony (or as the Case is) whereof he stands indicted, and so ye say all. Then the Clerk says set C. D. to the Bar, and says and does as last before, and so on with the rest (*mutatis mutandis*). Then the Crier makes Proclamation, and says, His Majesty's Justices command all Manner of Persons to keep Silence while they proceed to give Judgment against the Prisoners at the Bar, upon Pain



Pain of Imprisonment; and then the Judgment is pronounced, and so for the rest.

When the Petty Larcenies, and other grand Offences are tried, then the Processes shall be called over, and then the Traverses follow next. If any Person indicted for a Trespass or other Misdemeanor, do not appear, he shall not hold up his Hand at the Bar, as in the Case of Felony; but if he plead Not guilty, and shall traverse his Indictment, according to the usual Course, then he shall enter into Recognizance to prosecute his Traverse at the next Quarter Sessions.

N. B. No Person may assign Errors upon Indictments, unless he appear in proper Person, and put in Bail.

N. B. Also that no Informations or Indictments for Nuisances shall be quashed or discharged, unless two Justices of Peace do certify to the Court upon their own View, either by Certificate under Hands, or in Person, that the Nuisance is removed. *Layton's Case*.

If any Person thus charged upon Indictment will demur in Law upon the Evidence, the Clerk of the Peace must record the Demurrer; or if he will plead a Pardon, he must record the Plea; or if he will offer his Traverse to the Indictment, the Court must allow the same; but if he be obstinate, and refuse to plead, Judgment shall be given against him by *nil in dictis*.

If an Indictment be challenged for such Cause as the Justices will not allow, then may they seal a Bill of Exception for that Exception for the Party, if he will write and require it according to the Stat. W. 2. c. 30.

If any Person thus indicted, shall appear voluntarily without Process, he may pray Time to plead till the next Sessions, that he may advise with his Counsel what to plead.

Wheresoever any Process *ad respondendum* goeth out by Force of such an Indictment as is traversable, there the Party may offer, and ought to have his Traverse against it.

If the Party indicted will plead in Justification any Matter of Record that is before other Justices, the Court will give him a Day to bring it in.

Then the Clerk shall call the Parties bound by Recognizances taken at the last Sessions, to prosecute their Traverses at this present Sessions.

Is

Trial of Tra-

verses. Act of the Recog- nance is reliev-

give Facies brought on the Recognizance.

Indictments for Nuisances not to be quashed till after Certificate of two Justices.

Demurrer to Evidence.

Bill of Exceptions.

When Party ought to have his Traverse.

If Party is disabled by the Act of God, the Recognizance is respited.

Scire Facias brought on the Recognizance.

When Party bound dies, Sureties must plead it.

Judgment ought to be pronounced, and Fine set openly.

Court is of Counsel with the Prisoner.

Justices must sign the Estreats.

In all Trials the Counsel of the Prosecutor shall conclude the Evidence, and the Judge of the Court shall give the Direction to the Jury.

Upon a credible Affidavit made of Disability of Appearance by the Act of God, as Sickness, &c. it is usual to respite the Recognizance till next Sessions, endorsing the Cause on the Backside thereof.

If any Person be bound by Recognizance to appear at the next Quarter-Sessions, and in the meantime to be of the Good Behaviour, and during that Time before Sessions, shall misbehave himself and make a Breach of the Good Behaviour, a *Scire Facias* shall be brought upon such Recognizance, and the same shall be tried thereupon by a Jury.

If any Person be bound by Recognizance, with Sureties to appear at the next Quarter-Sessions, to be held for the County, and die before the Time of holding the said Sessions, the Sureties must plead the Death of the Party for their Discharge.

Every Contempt shall be answered in proper Person, and not by Attorney.

Every Judgment which shall be given, and every Fine which shall be assessed, ought to be openly pronounced and declared by the Court.

N. B. Where the Statute leaves the Fine to the Discretion of the Court, or any Justice differs in Opinion touching the Quantity of the Fine, or the Quality of the Punishment, the Chairman shall state the Matter of Fact to the Court, and every Justice there, beginning with the *Puisne*, shall publicly give their several Votes what Fine shall be imposed, or what Punishment shall be inflicted upon the Offender; but if the Question be Matter in Law, the Court will take Time to advise with the Judges according to the Form of their Commission.

In Trials of Criminals the Court is to be of Counsel with the Prisoner, and ought to advise him for his Good, not taking Advantage too strictly against him. And the Court may likewise be informed from a By-stander, especially a Man of the Law, offering any thing as *Amicus Curia*, relating to the Trial.

The Estreats of Sessions are a great Part of the Justice of Peace his Duty; and they are to be doubled, and one Part thereof by the Justices Hands is to be delivered to the Sheriff to levy by them; and thereout to pay the Justices of Peace their Wages, by the Hand of the Sheriff by Indenture between them to be made; and the Justices Names are to be put in those Indentures,

tures, that the Sheriff may know whom to pay, and for whom to have Allowance made. 14 Ri. 2. 11.

Formerly no Witnesses were to be examined upon Oath against the King, but now by Stat. 7 W. 3. c. 3. where any Person is indicted of High Treason, where by any Corruption of Blood may be made, or for Misprision of such Treason, he shall be allowed two Counsel, and to make any Proof by lawful Witnesses upon Oath. Witnesses for Prisoners are to be upon Oath.

And by Stat. 1 Ann. c. 9. all Witnesses on Behalf of Prisoners upon Trials for Treason or Felony, shall be upon Oath, and if convicted of wilful Perjury shall suffer accordingly.

A private Sessions of the Peace is not said to be held for the County. Style 359.

Order to remove a poor Man from *Waking* to *Oswel*, and upon an Appeal, the Sessions superseded that Order, and then ordered that the poor Man should be sent to *Waking*. These Orders being removed by *Certiorari*, it was moved to quash the Sessions Order, because they have Power only to quash or affirm, but not to supersede an Order, though but for a Time: Besides, here they have made an original Order, which they cannot do. It was referred to a Judge of Assize. *Salk.* 473. Order of Sessions referred to Judge of Assize.

An Order of Sessions was drawn up Specially to have the Opinion of the Court, which was thus concluded, And if the Court shall be of Opinion, &c. then, &c. this was adjudged naught, because the Sessions ought first to determine the Matter, and not conclude to the Opinion of the Court. 2 *Salk.* 486. Order must not conclude to the Opinion of the Court.

Upon an Appeal to the Sessions, they made an Order to quash the original Order, and to send the poor Man to the Parish from whence he was removed by that Order. It was insisted that the Sessions have only power to affirm or quash; but here they made an original Order; but adjudged that the Order was void as to that Part, and good as to the other Part. *Farr.* 10. Order void as to Part, and good as to the rest.

On an Appeal to the Sessions, they discharged the original Order, but did not say whether for Form, or upon the Merits of the Case; and for that Reason the Court of K. B. was moved to quash this Order of Sessions; but adjudged that they are not bound to set forth the Reason of their Judgment no more than other Courts; and that where the Sessions discharges an Order upon an Appeal, and it appears to be good, B. R. will intend that it was discharged upon the Merits. Where K. B. will intend Order was discharged on the Merits.



Sessions have not Power to order Clerk of the Peace to prosecute for Barytry.

Sessions cannot make an original Order when they ought only to reverse or affirm.

Sessions may bind to Good Behaviour.

Sessions may fine a Jury.

Sessions is but as one Day.

And that Court may alter their Order during the same Sessions.

ries; and therefore will confirm their Order of Discharge; but if it appear to be bad, then B. R. will intend that it was discharged for Form.

Order of Sessions that the Clerk of the Peace should prosecute T. P. upon an Indictment for Barytry, and that the Charge should be allowed out of the County Stock; the Surplus whereof they had Power to dispose to charitable Uses, by Virtue of the Stat. 43 Eliz. c. 2. but adjudg'd this was not a charitable Use, and that they had no Power to make such an Order. 2 Salk. 603.

Order of Removal from T. to B. and upon an Appeal the Sessions made an Order to remove him to A. a third Parish, which appeared to them to be the last Place of his lawful Settlement, quashed, because the Sessions made an original Order when they ought only to reverse or affirm the first Order.

Strict Words are not required in an Order of Sessions, as they are in an Indictment; but Forms are necessary in the Proceedings. And as to Fines imposed at Sessions, B. R. may mitigate them. 1 Vent. 37.

The Sessions may bind a Man to his Good Behaviour for any rude and insolent Behaviour to the Court; and if he hath no Sureties, may commit him till he find some, but cannot indict him; and this is according to the Common Law of England.

The Sessions may fine a Jury for not finding a Bill upon plain Evidence; and they may order the Sheriff to strike out a Jurymen, or to alter the Panel, if they see Cause. Sid. 219.

The Sessions made an Order, and the same Sessions vacated that Order by a subsequent Order; and both being removed by *Certiorari*, it was adjudged that they ought not to have returned the vacated Order, and that the Sessions being accounted in Law but as one Day, they may alter their Judgment, and make a new Order. 2 Salk. 494.

Adjudged that where an Order is made at the Sessions, it is still in the Breast of the Court during all that Sessions, either to alter, revoke, or make a new Order, to vacate the former, though it is drawn up in Form; and that the Court at the *Old Baily* have altered and set aside their own Judgment in the same Sessions, where they have given Judgment against a Man to be pressed to Death, and have afterwards allowed him to plead and be tried, and then have given another Judgment. The same Thing is done in B. R. where Judgments have been altered during the same

Term;

Term; and the Sessions as well as the Term, are accounted but as one Day. 2 Salk. 606.

The Caption of an Indictment at the Sessions was thus:

*Sessio tunc vicesimo & vicesimo octavo die Julii, &c.* Adjournment  
This was adjudged to be ill, for though the Sessions of Sessions may be adjourned from one Day to another, yet that must appear must appear distinctly, and not as if they were sitting plainly. from the 20th to the 28th Day of the Month. 2 Salk. 605.

When a Justice of Peace was Surveyor of the Highways, a Matter came in Question at the Sessions concerning his Office as Surveyor; and he joined in making the Order, and his Name was put to the Caption, for which Reason it was quash'd. 2 Salk. 607.

## Sewers.

Justices of Peace being often put into the Commission of Sewers, it may not be thought improper to say something on that Head. Sealure of Sewers.

The first Statute of any Consequence concerning them is that of the 6th H. 6. c. 5. though the King of England might, and did grant Commissions for the Surveying and Repairing Sea-Banks, Rivers, &c. and this is founded on the King of England's Dominion and Sovereignty over the four Seas; and therefore likewise the Ground covered with Water of Right belonging to him, by Consequence it is a Royal Escheat to the Crown when left dry. King of England's Dominion over the four Seas.

But Lands which are sometimes wet and sometimes dry are not relinquished, and therefore may belong to the Subject, who may likewise have Profits arising on the Sea, as a free Fishery. So Tithes of Fish may be due to the Parson, and this though not in a Parish, he may have either by Prescription or Custom; and Lords of Manors may be entitled to Lands between high and low Water-Mark; for such Lands lie dry every Day. sometimes wet and sometimes dry, may belong to a Subject.

But to prevent the Inundation of the Sea, the Statute of 23 H. 8. c. 5. was made, which was a Temporary Law, but made perpetual by 3 Ed. 6. c. 3.

In

In this Law there is a Form of the Commission, (which must be under the Great Seal) and the Oath of the Commissioners is also set forth at large.

Commissioners  
a Court of Re-  
cord.

The Commissioners are a Court of Record (tho' not called so in the Statute) and have Power to make Orders, which have the Force of Judgments, and may issue out Process to compel the Performance of their Orders; and therefore, when six of the Commissioners sit by Virtue of the Commission, they are allowed to be a Court of Record, as in *Gregory's Case*.

They can't intermeddle unless in Cases of publick Damage, as well as in publick Streams; for if they decree a Stream to be straitened, so that the Meadows of a particular Person are overflowed, this is a private Damage; and an Action on the Case will lie for it.

|                                 |   |               |   |                    |
|---------------------------------|---|---------------|---|--------------------|
| But they have<br>Power over - - | } | the Person by | { | Fine,              |
|                                 |   | the Goods by  |   | Amerciament,       |
|                                 |   | the Lands by  |   | Imprisonment;      |
|                                 |   |               |   | Distress and Sale; |
|                                 |   |               |   | charging them      |
|                                 |   |               |   | by Sale.           |

In what Cases  
fine.

And first, they may fine for ill Language, or for Contempt of the Commissioners in Court, or for any Disturbance there; for contemning their Orders; for refusing to obey them: They may fine their Officers for neglecting their Duty, for refusing to accept of an Office, being chosen, or misdemeaning himself when in Office; for setting up Piles and Stakes in great Rivers, this being a Purpresture which is in Nature of a Nuisance at Land, but then it must be presented to be *vi & armis*.

They may fine the Sheriff, if he doth not attend, upon Notice; or if he neglect to return a Jury, having a Warrant from them for that Purpose: And may fine a Juror for departing, after his Appearance is recorded.

Where estreat-  
ed.

By 13 *El. c. 9.* these Fines, and likewise Amerciaments, must be every Year estreated into the Exchequer by the Clerk of the Commissioners, or he forfeits 5*l.* for every Default.

They can't impose a Fine upon a Township, and levy it upon one Man; for it ought to be upon every Inhabitant in respect of his Estate. 2 *Cro.* 336.

In what Cases  
Amerciaments.

Amerciaments are usually set by the Jury, and are generally for Offences which consist in *non agendo*; and



in this Respect they differ from Fines; for these are set on Offenders for doing what they ought not. And therefore, Offences for which Persons are amerced can't be found to be by Force, because they arise by Sufferance, Neglect, or Nonseizance; as by suffering Walls or Banks to be in Decay, by neglecting to repair a Bridge, Causeway, or to cleanse a River, and the like.

But in some Cases they may be said to be done *ex armis*; as for casting Dirt, Sand, &c. in a River, or that 'tis a Purpresture, and then the Offender may also be amerced. Amerciaments may likewise be set by the Presentments of Surveyors.

But the Commissioners can't imprison for disobeying their Orders, as they may for a Contempt in their Presence. *Sid. 149.*

A Tax ought to be made according to the Land, *viz.* the Quantity and Quality of Acres, and not according to the Number of Persons. How a Rate ought to be made.

And where a Person refuses to pay a Rate or Tax which is imposed on him, the Commissioners may grant a Warrant to distrain for it. *5 Rep. Rook's Case. 2 Cro. 336. 2 Bulst. 198.* When Commissioners may grant a Warrant to distrain.

And, in such Case, the Goods of the Person upon whom 'tis imposed may be taken any where; but if it be upon a Presentment *ad reparandum vel amovendum*, then the Distress must be taken within the Bounds of the Commission. Where the Goods may be taken.

Where an Assesment is made upon particular Lands, a Stranger's Goods may be taken there, but not otherwise; but where Lands are not charged, but the Person only, as by Fines, Amerciaments, then the Goods of the proper Person must be taken, and no other.

These Goods may be sold, but not without Warrant from the Commissioners; and so long as they remain in the Custody of the Officer who acts under the Commissioners, they cannot be replevied, but the Goods may be replevied after they are sold. Where the Goods may be replevied.

Lands may be sold for Rates and Charges, imposed by the Commissioners, which lie in Payment. Where Lands may be sold.

But yet where a Man holds Lands by the Payment of a certain Sum towards the Repair of a Sewer, tho' this consists in Payment, yet, upon this Neglect, the Commissioners have no Power until they first make an Order for the Payment, &c. because it ariseth by the Tenure of the Land, and not by Virtue of the Statute. Where Commissioners must first make an Order.

But if Lands are held generally to repair, &c. and the Sum certain is not known, tho' this is a Payment which ariseth likewise by Tenure, yet if the Commissioners impose a Sum, and the Person neglects to pay it, the Lands may be sold by their Decree.

No Lands to be sold which are not within the Limits of the Commission.

But no Decree can be made for Sale of Lands which are not within the Limits of the Commission; nor for a Copyhold, because that might be the Prejudice of the Lord; nor for Non-payment of Fines and Amerciaments, because those are Mulcts or Punishments set upon particular Persons, and due to the King.

Copyhold may be sold now.

But now by the Stat. 7 Ann. c. 10. any six of the Commissioners may decree the Sale of Copyhold Lands, so as the Purchaser compound with the Lord of the Manor for the Fine; and then the Lord shall at the next Court grant unto the Vendor such Copyhold Lands, &c. for such Estate, as shall be decreed by the Commissioners to him, reserving the ancient Rent, and shall likewise admit him Tenant.

Six Commissioners may grant a Warrant to distrain under their Hands and Seals.

And six of the said Commissioners may, by Warrant under their Hands and Seals, give Power to any Person to levy the Money by them taxed upon any Lands chargeable with any Taxes by Virtue of their Commission; and this shall be done by Distress and Sale of the Goods of the Party who shall not pay, or refuse to pay the same, rendring the Overplus, and deducting reasonable Charges.

Where Tenant in Tail is bound by their Decree.

These Decrees must be certified into the Chancery to have the King's Assent; otherwise they are not binding; but that being done, a Decree upon Tenant in Tail will bind their Heirs. It will likewise bind a Feme Covert or Infant, but not a Prebendary, Parson, Dean or Bishop, who are seized in their polittick Capacities, because they are restrained by particular Statutes from making any Alienation. 1 Eliz. c. 13. 14 Eliz. c. 11.

Presentments in a Court of Sewers may be traversed.

Presentments in a Court of Sewers may be traversed, and tried there, but not what the Commissioners do upon their View: So if they fine a Person for a Contempt, 'tis not traversable, because 'tis the Act of the Court, but if the Party is aggrieved, he must bring a Bill of Equity.

What Lands are exempted.

Such Lands as lie upon an Ascent, and can be in no Danger of an Inundation, are exempted from being taxed: So likewise where Persons are bound by

by Tenure, Custom, or Prescription, their Lands are exempted. Tithes likewise shall not be charged, nor Lands, which by special Custom are charged to do other Repairs, but not in *non reparando* generally.

If a Wear or Mill, &c. is built on a navigable Where a Mill, River, or an ancient Wear inhaused, the Commis. &c. is to be sioners may order the Owner to pull down the one, pull'd down. and abate the other; and if he continue them, or build them up again, he forfeits 100 Marks per Stat.

1 H. 4. c. 12. 4 H. 4. c. 11.

If a Stranger sets up Piles or Stakes, he is to be Nuisance order- fined or amerced, and may be ordered to remove the ed to be remo- ved, Nuisance.

And if it cannot be found who committed it, the Commissioners may order those to abate it who are likely to receive most Damage.

Sewers, where no Passage of Boats is used, nor What Waters where the Water doth not ebb and flow, are not un- are not within der the Survey of the Commissioners, by Virtue of this Commission of Statute, because their Commission extends only to Sewers, Walls, Ditches, Banks, &c. by Coasts of the Sea and Marsh-Grounds, which are damaged by the Ebbing and Flowing thereof, or of fresh Waters descending therein: And therefore a particular Law was made 3 Ja. 1. c. 14. that the Walls, Ditches, &c. in or about London, where no such Passage is used, and where the Water falls into the Thames, shall be subject to the said Commission.

By Stat. 23 H. 8. the Commission of Sewers was to How long a continue no longer than three Years; but now by a Commission of subsequent Law, viz. 13 Eliz. c. 9. the Term is enlar- Sewers is to ged to ten Years, unless it shall be repealed or deter- continue, mined by a new Commission or Supersedecas.

And notwithstanding such Determination by Super- Yet the Orders sedecas, yet the Laws and Orders made by Virtue of made are good, such Commission before it is determined, shall conti- tho' a Commis- nue in Force, without any Return thereof made into sion is deter- Chancery, and without the Royal Assent, until they mined, until they shall be altered, repealed or made void by the new Commissioners; or any six of them.

But then these Orders must be written in Parchment, How long Or- indented and under the Seals of the Commissioners, ders continue or six of them; one Part whereof may remain with in Force, their Clerk, and the other Part where they shall ap- point: Which Laws shall then continue in Force for the Space of one Year next after the Expiration of ten Years from the Teste of the Commission,



Commissioners  
not compella-  
ble to return  
their Orders  
into Chancery,  
but into B. R.

Six Justices  
may execute  
the Orders of  
Commission-  
ers.

But their Pow-  
er ceases on a  
new Commis-  
sion.

Commissioners  
have Power  
over ancient  
Walls, Gutters,  
&c.

Where an Ac-  
tion lies a-  
gainst one  
obliged to re-  
pair.

Where Com-  
missioners may  
tax all likely  
to suffer.

How they may  
proceed.

And in the same Statute it is enacted, that the Com-  
missioners shall not be compelled to make a Return  
or Certificate of their Laws or Orders, nor be fined  
for that Cause.

But this must relate to Certificates and Returns  
made into the Chancery, and not in B. R. upon Cer-  
tiorari's delivered, and therefore they have been  
fined after the Delivery of such Writs. 1 Mod. 44. 1  
Vent. 66.

And if there is no new Commission within that  
Time, then the Justices of Peace may execute these  
Laws for that Year; but there must be six of them  
(Quor. 1.) and they must be Justices, &c. of the Coun-  
ty where the said Laws were to be executed by Virtue  
of the Commission expired.

But a new Commission being once issued, tho' with-  
in the Year, the Authority of the Justices is then to  
cease.

It has been held that these Commissioners, upon  
great Occasions, may make Orders for making new  
Banks and Cuts, as well as for repairing the old, so  
as they compound with the Owners of the Soil.

But this is contrary to the Resolution in the Case of  
the Isle of Ely in the 10 Rep. where 'tis held, that the  
Commission extends only to Reparation and new mak-  
ing ancient Walls, Gutters, &c. and not for recruit-  
ing new Rivers; for a Tax for new Inventions, tho'  
profitable, must be raised by a voluntary Contri-  
bution.

Where one is bound by Prescription or Tenure, or  
otherwise, to repair, he ought to do it, if the Danger  
is not irreparable: But if it be so by his Fault or Neg-  
lect, and he is not able to repair, every one who  
hath any Damage may have an Action against  
him.

But if the Danger is inevitable, by Reason of the  
extraordinary Rage and Violence of the Waters;  
there, to prevent a publick Inconvenience, the Com-  
missioners may tax all who are likely to have any  
Loss, tho' one is bound to repair. 2 Rep. Kighly's Case.  
Style 179.

And, in such Case, they ought not to tax him or  
them only, who have Land next adjoining. 3 Rep.  
Rook's Case.

They may proceed by a Jury impanelled to enquire  
who hath set up any Impediments, who have neglected  
to repair, &c. who are bound by Custom or Prescrip-  
tion,

tion, Tenure or Covenant, and what Quantity of Lands, what Ground lies within the Reach of the Waters, to which any Damage may be done.

And if the Jury find that such a Person ought to repair, tho' he remove it into B. R. they will not quash it, or grant a new Trial until 'tis repaired; and there, if, upon a new Trial, he be acquitted, he shall be reimbursed. *Sid. 78.*

They may also proceed by View, &c. by seeing the Fences, discoursing with Workmen what is necessary to be done, and how much it will cost, &c.

Those who have Land fronting the Sea, are obliged to repair, unless some other Person is bound to repair by Custom or Prescription. Persons whose Lands lie near the Sea obliged to repair.

The Owner of a Bank or Wall, is obliged to repair by Prescription *ratione terra*; but Bodies Politick may be bound by Custom, without any Land. *Fitz. Abr. 103.* How bound to repair.

One may be bound to repair *ratione Tenura*; as where Land is given for that Purpose; or by Covenant; but this doth not bind the Heir, unless he hath Assents by Descent from him who entered into the Covenant.

A Township may be taxed, and the Tax levied upon one Person; but then it ought to be on such a Person who is to bear some Part of the Charge, and not upon one wholly exempted.

The Person thus taxed may complain to the Commissioners, who may make an Order for a Contribution, according to the Quantity and Quality of the Land of such who are liable to contribute; and they may award Process to compel them to pay it. Person taxed may complain to the Commissioners.

But the best Way is, when they have agreed how much to set on a Township, then to send for some of the Inhabitants, and by their Assistance to make a Rate. How to make a Rate.

The Parson is not liable for his Tithes, unless by Custom; but for his Glebe he is: But if the Tithes are in the Hands of a Layman, then they are liable to be taxed. Where the Parson is liable, and where not, and what may be taxed.

Annuities by Prescription issuing out of Lands chargeable to the Tax, are not liable to be rated; for the Land shall not be doubly charged. Annuities.

Those who have Common of Fishery, Turbary or Common Pasture in great Fens or Marshes, are liable to be taxed; but those who have Common in Lands sown after the Corn severed, are not.

- Copyhold.** Copyhold is chargeable; and by 7 *Ann. c. 10.* the Commissioners may sell the Land for Non-payment.
- Fairs.** Persons who have the Profits of Fairs, are not to be charged with the Profits thereof.
- Ferries.** But he who hath the Profit of a Ferry may be charged for it.
- Herbage.** He who hath the Herbage of Land may be charged.
- Lessor, and Lessee.** The Lessor must be taxed for great Repairs, viz. For building a new Bank or Wall, or repairing both; but for small and annual Reparations, the Lessee only.
- Level.** If there is an apparent Danger, the whole Level may be taxed, tho' a single Man is bound to repair.
- Marker.** The Profits of a Market are not taxable.
- Mortgagor.** A Mortgagor is to be taxed.
- Parks.** Parks in the Level must be taxed.
- Patron.** A Patron is not liable to be taxed for his Right of Presentation.
- Port.** To repair a Port, the whole County may be taxed.
- Tenant in Tail.** Tenant in Tail, in Possession, is liable, but not he in Reversion or Remainder.
- Warrens.** Warrens in the Level are to be taxed.
- The Returns and Proceedings of Commissioners of Sewers are all in *English*.
- When and where Commissioners may be fined.** If they proceed after a *Certiorari* delivered, the Court of B. R. will grant an Attachment, and they may be fined and committed for a Contempt. 1 *Levinz* 288.
- Where Return is not good.** The Return was *quod presentatum fuit per Juratores*, without saying *duodecim*, and for this Reason not good. *Marsh's Rep.* 123, 198.
- Where a Mandamus was granted.** A Mandamus was granted to the Commissioners, for that an Archdeacon was made Expenditor, he being to be exempted by Law, because it is a secular Office, and inferior to his Degree. *Dr. Lee's Case* 22 *Car. 2.*
- For the Authority of Commissioners of Sewers, the Forms of their Commissions and Oaths at large, see 23 *Hen. 8. c. 5.* made perpetual by 3 & 4 *E. 6. cap. 8.*
- Power of the Commissioners.** Tho' these Commissioners can't make any new River, or new Invention, as Mills to cast Water, &c.



yet they may remove ancient Banks or Sewers into more convenient Places. 10 Co. 142.

They cannot cast down any Mills, Causeys, &c. erected before the Time of Ed. 1. but may abate them, if raised above their ancient Height. 10 Co. 138.

They ought not to tax any towards these Reparations, &c. or but such as have Prejudice by the Nuisance, &c. or may have Benefit by the reforming them. 6 H. 6. c. 10. 10 Co. 143.

They ought to tax all who may be endamaged by not repairing, tho' their Lands be not adjoining, and it must be proportionable to the yearly Value of the Land, &c. Co. 5. Rep. 100. Dalt. c. 60. Qu. Sessions are to swear Commissioners of Sewers. See Serjeant Callis his Reading on the Stat. 23 H. 8. cap. 5.

There are several Statutes relating to Sewers, as 9 H. 3. c. 15 & 16. 6 H. 6. c. 5. 18 H. 6. c. 10. 23 H. 6. c. 9. 12 E. 4. c. 6. 4 H. 7. c. 1. & 6 H. 8. c. 10. These are chiefly for defending and repairing the Walls, Banks and Sewers, &c.

Then there are 9 H. 3. c. 23. 25 Ed. 3. c. 4. 45 Ed. 3. c. 2. 1 H. 4. c. 12. 9 H. 6. c. 9. and 12 Ed. 4. c. 7. These relate chiefly to pulling down and removing Nuisances.

Lastly, there are 23 H. 8. c. 5. 25 H. 8. c. 10. 3 Ed. 6. c. 8. 13 El. c. 9. And these are of both Sorts, viz. as well in repairing the Banks, &c. as in pulling down Nuisances, &c.

The Commissioners ought to tax all that are in Danger to be endamaged, by the not repairing, &c. (and that according to their Land, &c.) and not tax him only whose Grounds lie next adjoining to the River, &c. For *qui sentit commodum sentire debet & onus*.

By 3 & 4 Ed. 6. c. 8. all Monies rated by Commissioners of Sewers upon any of the King's Lands, shall be liable by Distress or otherwise, as may be done in the Lands of other Persons; and Acquittances under the Hand of such Collector or Receiver as shall be appointed by the Commissioners, or any six of them, shall be a sufficient Discharge, as well to the Tenants of the King's Land, as also to the Receiver, Auditor, or other Officer, for the Allowance of the said Rates to such Tenant.

King's Lands taxable by Commissioners.

The Wages of  
the Commis-  
sioners.

The Commissioners shall have for their Pains 4 s. a Day, and the Clerk 2 s. a Day out of the Rates taxed, &c. And the Commissioners, or six of them, have Power (at their Discretions) to allow out of the said Taxes more to the Clerk for writing Books and Process, and to the Collectors and others that take Pains in the due Execution of the said Commission.

No Person shall be compelled to be sworn, or to sit or travel in the Execution of any Commission of Sewers, unless he be dwelling within the County wherein he is assigned a Commissioner.

And Commissioners of Sewers, and their Proceedings, are subject to the Jurisdiction of the Court of King's Bench, notwithstanding the Clause in the Statute of 13 El. c. 9. 1 Vent. 67.

## Sheep. Vid. Cattle.

## Sheriff.

Derivation of  
the Word.

Sheriff is compounded of two Saxon Words, *Shire* and *Reeve*. *Shire* comes from the Word *Sciran*, which signifies to cut or divide; hence also the Word *Share* or *Part*. *Reeve* signifies *Propositus* or *Governor*. So that *Sheriff* signifies the Keeper or the Governor of the County or Shire.

This Officer seems to have been coeval with the Division of the Kingdom into Shires or Counties, which by the better Opinions is near 800 Years ago.

Signification of  
the Word.

For before the Conquest, tho' the *Comes* or Alderman generally presided over most Counties, yet Mr. Selden tells us that the Particle (*Vice*) in *Viccomes* (the Latin Word for Sheriff) doth not signify any Subordination to the *Comes* or Alderman, but that this Office was *supplere Vicem Comitum*, or *Aldermannum*, in such Counties where no Earl or Aldermen governed.

The Sheriff at Common Law was eligible by the Sheriff eligible County as the Coroner is at this Day, which held till by the County after the Conquest, viz. about the Beginning of the Reign of K. Ed. 2. as appears by *Articuli super Chartas* made 13 E. 28 Ed. 1. but by 9 Ed. 2. and 14 of Ed. 3. at Common Law.

c. 7. and 21 H. 8. c. 20. the Judges are to nominate three Persons of every County, to be presented to the King, that he may prick one of them, which by the Statute is to be done 3 *Novembris*, being *Craftin Animatum*. And yet *Anni 16 Car. 1.* because the 3d of November was the first Day of the Parliament, and the Lords were to attend upon the King, it was resolved by the Judges, that it might be well put off till another Day; and the Lord Keeper deferred till the 6th of November. *Cro. Car. 595.*

By Stat. 28 Ed. 3. c. 7. no Sheriff shall continue in his Office above one Year. And by 41 Ed. 3. no Sheriff or Under-Sheriff, or Sheriff's Clerk, shall continue in their Office above one Year. And by 1 R. 2. 11. none, having been Sheriff for one whole Year, shall be Sheriff again within three Years then next ensuing.

But the Stat. 9 Ed. 2. restrains not the King's Power at Common Law, but the King may constitute a Sheriff without Election or Grant in Fee; and he may still make Sheriffs without the Judges, for he is entitled to and may command the Service of his Subjects. *Dyer 211. 225.* As the Commission of Trial of Piracy, upon the Stat. 28 H. 8. is good, though the Chancellor does not nominate the Commissioners as the Statute appoints, &c. and the Reason is given by my Lord *Hobart. Hob. 14. b. Holt and Glover's Case; and 214.* King may make Sheriffs with out the Judges.

And the Election of Sheriffs being meerly in the King, and the Office ministerial, only these Statutes were made to ease the Sovereign of Labour, and not to deprive him of Power.

The Sheriff takes Place of every Nobleman in the County, during the Time that he is Sheriff; and though the Sheriff be not a Justice of Peace, yet he is a Conservator of the Peace, and by this he may well imprison a Man upon good Cause. 2 *Roll. Rep. 237.* and *Fitzberbert's, N. B. 81. b.* At Common Law the Sheriff may commit any one for the Breach of the Peace, and also all Affrayers or Breakers of the Peace in his Presence.

The Dignity and Power of Sheriffs.

3. Upon



Upon any foreign Invasion he may raise the County; so upon Rebellions and Insurrections, and may command any Number he thinks fit to aid him.

By Stat. 17 Ri. 2. c. 8. The Sheriff may raise the *Posse Comitatus* to suppress Rioters, and commit them to Prison. 13 H. 4. c. 7. and if the Rioters resist, the Sheriff and his Assistants may justify the Killing them. *Vide* the Stat. 13 H. 4. c. 7. Stat. Northampton, 2 Ed. 3. c. 3. 13 E. 1. c. 39.

The Stat. 1 M. c. 8. doth not take away Power from the Sheriff, only if he was in the Commission of the Peace before, he is to forbear the Execution of his Commission for the Peace, so long as he is Sheriff.

King cannot restrain any Part of the Sheriff's Power.

The King cannot restrain any Part of the Sheriff's Power, neither can the King choose a Sheriff contrary to the Statute of *Lincoln*. The Office of Sheriff is entire, and cannot be apportioned. Though the King constitutes a Sheriff *durante beneplacito*, and may determine it at Will, yet he may not determine it in part, nor abridge him of any thing incident to his Office. *Hab. 13. 2 Inf. 501. 4 Rep. 32. Milton's Case, 4 Co. 33.*

The Sheriff is not punishable for executing the Process of the Court, though it were erroneous.

If Sheriff, &c. be slain in doing his Office, it is Murder.

If any Sheriff, Under-Sheriff, Serjeant, or Officer, who hath Execution of Process, be slain in doing his Duty, it is Murder in him who kills him, though no former Malice between them; and though there were Error in awarding Process, or in the Mistake of one Process for another.

And an Officer, if he be resisted, is not bound to fly to the Wall, as other Subjects are.

Persons not assisting Sheriff, &c. may be fined.

If the Sheriff's Bailiffs lawfully arrest a Man, and the Persons standing by refuse to assist them, in Case of Resistance they shall be fined. *Winch. p. 72. Foster's Case.*

For besides the Warrant of the Common Law, the Sheriff has his Letters Patent of Assistance, whereby the King commandeth that all Archbishops, Bishops, Dukes, Earls, Barons, Knights, Freemen, and all other of that County, be to the Sheriff thereof in *omnibus quæ ad officium illud pertinent intendentes auxiliares & respondentes.*

Sheriff not to be chose Member of Parliament.

Anno 12 Jac. 1. Sir George Selby was made Sheriff of *Darham*, and afterwards elected Knight of the Shire for *Northumberland*; it was resolved in Parliament that the Election was void; for the Sheriff of a County is not to be chosen a Parliament Man.

Though

Though by Stat. 23 H. 6. no Man shall serve the King as Sheriff of any County above one Year, yet by Stat. 17 E. 4. c. 6. they may execute their Office, during Michaelmas and Hillary Term, after their Year is out, if no Writ of Discharge come. 12 E. 4. 7 Rep. Calvin's Case.

Every Sheriff is to be resident in his own Person within his County during the Time he is Sheriff (except he be otherwise licenced by the King) *per 4 H. 4. cap. 5.* Sheriff ought to reside in the County.

By Stat. 23 H. 6. c. 10. the Sheriff is not to let his County to Farm. And therefore because the Sheriff of Nottingham took Money for the Gaolership and the Bailiffwick of the County for one Year, he was fined in the Star-Chamber; but the Penalty by the Statute for offending these Laws is 40*l.* Sheriff not to sell Places under him.

A Sheriff is Guilty of Murder, if he observe not the Order of Law in putting a condemned Man to Death. 7 Rep. 13. 1 Jac. 1.

The King may determine his Office when he pleases, though he cannot (during the Continuance of his Office) abridge his Power. King may determine his Office when he pleases.

Formerly the Office of Sheriff, as all other Commissions determined by the Death or Resignation of the King; and therefore it was usual presently in the next King's Time to sue out new Patents of his Office and of Assistance. 7 Co. 30. Dyer 165. 2 Sid. 49. but this is now altered by Statute of 1 Q. Ann. c. 8.

The Sheriff being made a Lord of Parliament, or becoming a Peer by Discent, this doth not determine his Office. Cro. Eliz. 12. Sheriff being made a Peer does not determine his Office.

The High Sheriffs themselves are to attend the Judges at the Assizes, and may be fined by the Judges in Case of Failure.

Every Sheriff, and all other Persons who have the Custody of the Gaols and Criminals, ought to certify the Names and Crimes of every of the Prisoners in their Custody for Felony, to the Justices of the next Gaol-Delivery, upon Pain of 5*l.* for every Default. Sheriff, &c. to make a Calendar of Prisoners.

By Stat. 1 Hen. 5. c. 4. no Under-Sheriff, Sheriff's Clerk, Receiver, or Sheriff's Bailiff, shall be Attorney in any of the King's Courts, so long as he bears such Office under the Sheriff. Sheriff, &c. not to be an Attorney, &c.

By Stat. 1 E. 4. c. 2. Sheriffs shall deliver all Indictments and Presentments taken in their Turns unto the Justices of Peace at their next Sessions, in Pain of 40*l.*

Every Sheriff and Under-Sheriff, &c. before he intermeddles with his Office, shall before one of the Justices

Sheriff must be sworn before he enters upon his Office.

Justices of Assize, or the *Custos Rotulorum* of the County, or two Justices of the Peace, there (1 *Quorum*) take the Oaths mentioned 3 *Geo. 1. c. 15.* on Pain of 40*l.* and Justices of Peace in Sessions have Power to hear and determine the Defaults and Offences aforesaid.

By 43 *El. c. 6.* must not make his Warrant till he has the Writ.

If any Sheriff or other do make any Warrant, not having the Writ or Process warranting the same, on Confession or Proof by sufficient Witnesses, the Judge of Assize, or of the Court whence the Process issued, shall commit him to Gaol till he have paid to the Party grieved 10*l.* and all his Costs, and also 20*l.* to the King.

The Number of Men he must have at the Assizes.

By Stat. 13 & 14 *Car. 2. c. 21.* no Sheriff shall have more than forty Men Servants with Liveries attending upon him at the Assizes, nor under twenty in any County in *England*, nor under twelve in *Wales*, on Pain of forfeiting 200*l.* This Act at first being temporary, was made perpetual by 1 *Jac. 2. c. 17.*

Sheriff not obliged to charge in his Accounts, the Money he pays for apprehending Highway Men, &c.

By Stat. 3 *Geo. 1. c. 15.* no Sheriff shall be obliged to charge in his Accounts any Money paid as Rewards on the Conviction of Highway Men, Clippers, Coiners, or House Breakers, by Virtue of the Acts of 4 & 5 *W. & M. c. 8.* 6 & 7 *W. 3. c. 17.* and 5 *Ann. c. 31.* but may immediately apply for the same to the Treasury, who on a due Certificate of the Conviction of any such Offender, together with the Acquittances of the Parties entitled to receive the Rewards, shall forthwith repay such Sheriff the Money so disbursed without Fee.

No Person to buy or sell the Office of Under-Sheriff, &c.

If any Person buy, sell, let, or take to farm the Office of Under-Sheriff, or Deputy-Sheriff, to act in his Head, Seal-Keeper, County-Clerk, Shire-Clerk, Gaoler, Bailiff, or any other Office pertaining to the Office of High-Sheriff, in *England* or *Wales*, or to contract for, promise, or grant for Money, or other Reward, any of the said Offices or Places, or to give, take, promise, or receive any other Consideration for the same, directly or indirectly, by themselves or any Person in Trust for them, on Forfeiture of 500*l.* one Moiety to the Crown, the other to the Prosecutor, to be recovered by Action of Debt, &c. in any Court at *Westminster*, in which no *Essoin*, &c. provided that such Suit be commenced within two Years after the Offence, and not otherwise. 3 *Geo. 1. c. 15.*

Sheriff's Fees on a Writ of Possession.

It is not lawful for any Sheriff, Under-Sheriff, Bailiff, &c. for executing a Writ of *Habere Facias possessionem aut seignum*, to demand or receive any greater Fee

or



or Reward than 12*d.* for every 20*s.* of the yearly Value of any Manor, Messuage, &c. whereof Possession or Seisin shall be by any of them given, where the whole exceeds not the yearly Value of 100*l.* and the Sum of 6*d.* only for every 20*s.* per Ann. above the yearly Value of 100*l.* *Ibid.*

For the Oaths both of the High-Sheriff and Under-Sheriff, see Statute 3 Geo. 1. c. 15.

Sheriffs ought to return their Panels for the Sessions, four Days before the Sessions at the least, upon Pain of 20*l.* and the Bailiffs of Liberties ought to make Return of their Warrants six Days before the Sessions at the least, upon the like Pain, by the Statute of 4*Ed.*

Sheriff ought to return their Panels 4 Days before the Sessions.

3. c. 11.

Sheriffs ought to return, upon every Precept directed unto them from Justices of Peace to inquire of forcible Entries, upon every Jury, twenty Shillings

What Issues to return.

Issues at the first Day; and Justices of Peace have Power and Authority to hear and determine those Defaults by Bill of Indictment; and Sheriffs shall forfeit for every Default Twenty Pounds, Half to the Informer, and Half to the King, by 8 H. 6. c. 9.

Sheriffs Bailiffs one Year, ought not to be in that Office in Three Years after, by the Statute of 1 H. 5. c. 4. because by their continual being in the Office, they grow so cunning, that they are able to deceive both the King, the Sheriff, and the County.

Bailiffs ought not to continue in Office above one Year.

The Sheriff hath Jurisdiction in two Courts where Justice is administered; one called anciently the *Sciremote* or the *Folkmote*, and now the Sheriff's *Tourn*.

Of the Sheriff's Tourn, and the County Court.

The other called the County Court.

The *Tourn* is a Court of Record held before the Sheriff, to hear and determine small Felonies and Nuisances; and out of this Court the *Leet* was derived and granted to particular Lords of Manors. This Court is to be kept twice in a Year, viz. *infra mensem Pasch. & Mich.*

Of the Tourn.

The Power of Stewards in Leets, and of Sheriffs in the *Tourn* is the same; but if the Sheriff will enquire into what is usually inquirable at the *Leet*, and which hath been found there, he cannot distrain for an Amercement upon such a Presentment, without being a Trespasser, but in the Lord's Default he may enquire, &c.

Anciently the Sheriff inquired in this Court of all Felonies at Common Law, but of none by Statute; but this was when it was one of the Highest Courts the King had: Now he cannot hold Plea of any Felony

lony

lony or for any Debt or Trespafs, being restrained by *Magna Charta. c. 13.*

In those Days he took *5 Commissionis*,  
Indictments *virtute 2 or Officii.*

But the Power which he had by Commission was taken away by Statute 28 *Ed. 3. c. 9.*

And the Power he had *virtute officii* was taken away by Statute 1 *E. 4. c. 2.*

It is true they might still take Indictments in this Court, but they could award no Process, for they must deliver such Indictments to the Justices of the Peace at the next Sessions, under the Penalty of 40*l.* and the Justices by this Statute have Power to proceed as if such Indictments were taken before them.

If they do not return the Indictments to the next Sessions, they are all void; and if they arrest, fine, or imprison without any Process from the Justices in their Sessions, they forfeit 100*l.* one Moiety to the King, the other to the Party grieved.

But he may still commit for an Affray in his Presence, sitting in the Court, or may bind them to the Peace, and commit them for Want of Sureties, and may impose a Fine for any Contempt there, or Disturbance of the Court.

Suiters making Default, may be amerced and distrained; so may the Jurors departing without giving Verdict.

At this Day the Authority of the Sheriff in this Court is chiefly to preserve Order and good Government in the County, by Enquiry into Offences committed against the Peace, and of other common Nuisances among the People.

And upon Presentments of Nuisances, the Offender cannot be amerced there, but such Presentment must be certified to the Justices as aforesaid.

But this Court and the Leet also are now almost dissolved, and the Quarter-Sessions grown up in their Places.

Of the County Court.

The County Court still continues; it was instituted by *Edmund the Saxon*, Sixty Years before the *Town*, but it is not a Court of Record, as the *Town* and *Leet* are, which are to preserve the Peace and to punish Nuisances; but the other is of private Jurisdiction, to determine Causes between the Parties, under the Value of 40*l.*

Formerly this Court held Plea of Titles of Land, in Cases where the Lord of the Manor in which the Land lay had not done Justice; and at this Day by  
Virtue

Virtue of a Writ of *Justitias* they may hold Plea in personal Actions to any Value; and in some Cases by Virtue of this Writ, they may hear and determine real Actions.

On an Arrest, if the Sheriff take more for his Fee than 1 s. 8 d. or the Bailiff take more for his Fee than 4 d. or the Gaoler for his Fee than 4 d. or take more for the Bond of Appearance than 4 d. they are to pay treble Damages to the Party grieved, and 40 l. to the King and Prosecutor, *per Stat. 23 H. 6. c. 10.*

Sheriff's Fees on an Arrest.

A Sheriff took 30 s. for a Warrant upon a *Ca' Sa'* on a Judgment for 103 l. This is Extortion at Common Law, but not within this Statute, because it speaks of Fees to be taken upon the Arrest of the Party when bailed; and a Man cannot be bailed who is taken upon a *Ca' Sa'*. *Hutton 70.*

The Sheriff is not to send any Provisions to Judges, *Assizes*, or Gratuity to their Officers, nor he must not have above 40 or under 20 Men in Liveries, on Pain of forfeiting 200 l. by Stat. 15 & 14 Car. 2. c. 2.

Sheriff must not let his Bailiwick or County to farm, on Pain of forfeiting 40 l. *per Stat. 23 H. 6. c. 10.*

The Sheriff took Money of the Gaoler for his Place, and his Servant sold the Bailiwick, but the Sheriff took the Money. This was held to be within the Statute of 4 H. 4. c. 5. of letting his County to Farm, and he was fined. *Noy 100.*

Sheriff must take no more than 1 s. for every Pound under 100 l. and if above 100 l. then but 6 d. for every Pound he levies upon an Extent or any Execution; and if he does, he forfeits treble Damages to the Party grieved, and 4 l. to the King and Prosecutor, *per 29 El. c. 4.*

Executions.

An Information was brought against the Sheriff of Gloucester upon this Statute, for taking more than 12 d. in the Pound, for executing a Judgment out of the Common Pleas. The Defendant pleaded the *Proviso* in the Act, which is, that it shall not extend to Fees for Executions within Cities or Corporations; but it was held that the *Proviso* shall be intended of Actions arising within the Corporation, and for which the Action is brought in the Corporation Court, and Judgment there had, and not where the Sheriff upon any Process out of a superiour Court enters a Corporation and doth Execution. *Cro. El. 287. Lamb 19 & 51.*

He



and a writ  
shall be

He must not take Poundage for executing a *Capias* and *satisfaciendum*, or upon charging one in Execution for any greater Sum than the Debt really due to the Plaintiff, which Sum the Plaintiff shall mark and specify on the Back of the Writ, before it is delivered to the Sheriff to execute. Sheriff or Bailiff taking more Fees, and being convicted, shall be Guilty of Extortion, and shall forfeit treble Damages to the Party grieved, and double the Sum extorted, upon Proof before the Judge of such Court out of which the Writ issued, in such summary Way as to them shall seem meet; and moreover shall forfeit 200*l.* one Moiety to the Crown, the other Moiety to the Prosecutor, to be recovered in any Court of Record at *Westminster*, so as the Prosecution be within two Years after the Offence done. 3 *Geo. 1. c. 15.*

What Sheriff  
must do in a  
Forcible En-  
try.

In Cases of Forcible Entry he must assist the Justices of Peace, and must levy the Fines estreated in to the Exchequer. And he must impanel a Jury to inquire of the Force, upon a Precept to him directed from the Justices; which if he refuse, he forfeits 20*l.* between the King and Prosecutor, to be recovered by Indictment in Sessions; and if he return those who have not 40*s.* *per Ann.* he may be indicted 8 *H. 6. c. 9.* and by the same Statute upon any Entering or Detaining with Force, the Party grieved may have a Writ directed to the Sheriff upon the Statute of *Northampton*, by Virtue whereof if he find the Force, he may make Proclamation commanding the Offenders to be gone. If they refuse, he may seize their Arms and commit their Persons, but he cannot make Restitution.

Gaol.

The Sheriff is chargeable with the Gaols and Prisoners, and must put in such Gaolers for whom he will answer; but the Gaolers who have the actual Possession, are liable for wilful Escapes, if they have wherewith to satisfy; and if he suffer a Felon to escape, it is Felony in the Gaoler, for which he shall be hanged, as was done at *Cambridge*, in the Reign of *Q. Elizabeth.*

Of the Court  
of the County

Indictments.

Indictments or Presentments taken in Tourns must be delivered at next Sessions to the Justices of Peace, or else the Sheriff forfeits 40*l.* *per Stat. 1 Ed. 4. c. 2.*

If the Sheriff return any Bailiff, Coroner, Steward, or Servant of his on a Jury, he forfeits treble Damages to the Party, and 40*l.* to the King and Prosecutor, by 23 *H. 6. c. 20.*

Sheriff

Sheriff shall not take for returning the Panel, above 2s. nor for the Copy thereof above 4d.

Nor no Juror shall be returned without an Addition, by 27 El. c. 7.

Tales-Men shall be returned out of some other Panel to serve at the same Assizes. 7 & 8 W. 3. c. 32.

Summons of Persons qualified to attend on Juries must be made six Days before, by shewing the Warrant under Seal of the Office, or by a Note in Writing under the Hand of the Officer, to be left at the Dwelling-House of the Jurymen; and summoning otherwise than as aforesaid, or neglecting his Duty, or excusing any one for Favour or Reward, or allowing an Exemption to any one under Seventy Years old, the Sheriff, Under-Sheriff, or Bailiff, forfeits 20l. to the Party grieved, or to any one who will sue for it.

None shall be returned at Assizes or Sessions in the County of York, but once in Four Years.

One Panel of Forty-eight Frecholders or Copyholders, each having 80l. per Annum, shall be returned on the Grand Jury.

Sheriff must be sworn in before such Commissioners Oath to be taken as shall be named to administer the Oath to the High Ken by Sheriff, Sheriff in the County, as often as a Commission of how and where. *Dedimus* shall be sued forth for that Purpose; or by the Barons of the Exchequer, or one of them, when the Sheriff desires to be sworn in Town, by Stat. 3 Geo. 1. c. 15. but the Sheriffs of Wales and Chester are not obliged to take the said Oath, but may be sworn as formerly, by 27 El. c. 12.

Sheriff is Conservator of the Peace, through the Peace. whole County; he may command any Offender to find Surety of the Peace. He may *ex officio* take a Recognizance; and so he may by Virtue of his Commission, which is *Commissimus vobis custodiam Comitatus*.

Plaints shall not be entred in County-Courts, but in the Name of the Party Plaintiff, either by himself or Attorney; and he must find Pledges which are known in the County to pursue his Plaint, and there must be but one Plaint for one Cause, under the Penalty of 40l. and the Defendant must be summoned by a Bailiff, under the Penalty of 40s.

Any Justice upon Complaint may examine Plaints and Officers, and if he find them Guilty, shall within Three Months certify the Examination into the Exchequer, upon which they shall be convicted to pay the aforesaid 40s. without farther Enquiry.

Process to  
make his  
Eftreats.

## Sheriff.

Two Justices may view his Eftreats before they issue out of the County-Court, and there must be two Parts of them indented and sealed by those Justices and Sheriff, one Part to remain with the Justices. If he refuse to appear, the Justices may make a Process directed to the Coroner to compel him; and this is a *Ven. Fa.* by 11 H. 7. c. 15. these Justices are to be appointed at *Michaelmas* Sessions by the *Custos Rotulorum*, or in his Absence, by the eldest Justice of the *Quorum*, as aforesaid.

### An Appointment of Justices to examine the Eftreats of Sheriffs.

**I** A. B. Barr. Custos Rotulorum of the County of, &c. do hereby appoint C. D. and E. F. Esqrs; two of his Majesty's Justices, &c. to view and examine the Eftreats of G. H. Esq; Sheriff of the said County of, &c. and to keep in their Custodies one Part of the said Eftreats, indented between them and the Sheriff aforesaid. Witness my Hand, &c.

Warrants.

Making Warrants without the original Process, (if the Offence is confessed or proved by sufficient Witnesses) the Judges shall commit the Offender, and he shall not be enlarged till he pay to the Party grieved all his Cost and Damages, to be assessed by the Judge, and 20*l.* more, and 20*l.* to the King. 43 El. c. 6.

Sir Lewis Mordant was Sheriff of Bucks, his Father died 20 Aprilis, the Parliament then sitting, so that he was a Peer, but his Office of Sheriff was not determined by his Peerage.

Sheriff may administer the Oath to Candidates at Elections of Parliament Men.

Two Justices, the Sheriff, Under-Sheriff, &c. may administer the Oaths to Candidates for Members of Parliament for County, City, Borough, &c. He who stands for a County must swear he has 600*l.* per Ann. and if for a City or Borough 300*l.* per Ann. They who administer the Oath are to certify the Taking it into the High Court of Chancery, under the Penalty of 100*l.* And the original Poll-Books, &c. of Elections of Knights of the Shire, are to be delivered on Oath by the Sheriffs, or returning Officers, to the Clerk of the Peace, and by him kept among the Records of the Sessions of the Peace. Stat. 10 Ann. cap. 23.

Upon



Upon the first *Distingas* or *Habeas Corpora*, the Sheriff, &c. shall return 10*s.* Issues upon every Juror; upon the second 20*s.* upon the third 30*s.* and upon every farther Writ double the Issues, or forfeit 5*l.* and if any be returned summoned who is not, and Loss of Issues, &c. the Sheriff, &c. shall forfeit double his Issues; and if a Sheriff, &c. shall take a Reward for not returning a Juror, he shall forfeit 5*l.* to the King and Prosecutor. 27 *El. c. 6.*

Special Bailiffs are not to be sworn. *Jones's Rep.* 247. *Crompt.* 76. 103. *Dalt. c. 61.*

If he return a *Capi Corpus* or *Reddidit se*, and have not the Body at the Return of the Writ, the Court will punish him.

The Sheriff cannot take Bond for his Fee, by 23 *H. 6. 1 Cro. 287. 150.*

A Sheriff's Under-Sheriff is but his Deputy, and removable as an Attorney, though made irrevocable. *Hob. 13.*

An Under-Sheriff seizing five hundred Pounds Goods for Three Shillings, and returning into the Exchequer that he had seized but to Three Shillings Value, and in undue Manner procuring one to be convicted, by returning two of his Servants of the Jury; this was adjudged a great Misdemeanor, and an Information awarded in *B. R. 1 Cro. 567.* Sheriff punished for a Misdemeanor.

Z 2

Shoe

## Shoe-makers.

**Journeyman  
Shoe-maker  
imbezilling  
Shoes or Mate-  
rials, &c. how  
to be punished.**

**B**Y Statute 9 Geo. 1. c. 27. If any Journeyman Shoe-maker or other Person hired as such, within the Bills of Mortality, be accused by the Master employing him, of fraudulently purloining, imbezilling, selling, pawning, or exchanging any Boots, Shoes, Slippers, cut Leather, Lace, Lasts, or other Materials for making Boots or Shoes, &c. not being the proper Goods of the Person accused, any Justice of the County where, &c. on Complaint on Oath, may summon the Party accused, or grant his Warrant to apprehend him, and to bring him before the Justice, who on his Appearance, or Default thereof, may proceed to examine the Fact, and either upon Confession, or the Oath of one credible Witness, may convict the Offender, and immediately award the Party grieved reasonable Satisfaction; and if not paid immediately, may grant his Warrant to levy it by Distress and Sale of the Offender's Goods; and if no sufficient Distress, then to be whipt in the Parish where the Offence was committed; and in Case of Conviction for any second or other Offence, to commit the Offender to the House of Correction to hard Labour for any Time not exceeding one Month, nor less than fourteen Days.

**Persons buying  
or taking such  
Things into  
pawn, how  
punishable.**

Every Person who shall buy, receive, or take in pawn from any Journeyman Shoe-maker, or any hired as such, or from any other Person whatsoever, any Boots, Shoes, &c. or Materials for making them, not being the proper Goods of him that sells or pawns, or offers to sell or pawn them, shall for every Offence (being lawfully convicted thereof, in manner aforesaid) make such reasonable Recompence within two Days after the Fact shall be determined, as shall be awarded, or else be subject to such Distress; and for Want of sufficient Distress, shall be liable to the like Punishment as is hereby inflicted on Journeymen for purloining, &c.

**Any two Ju-  
stices, &c.  
may grant a  
Search-War-  
rant,**

It shall be lawful for any two Justices dwelling within the Bills of Mortality, on Complaint upon Oath, to issue their Warrant for searching in the Day-time the House of any Person whom they shall suspect to have

have received, bought, or taken to pawn any such Goods so fraudulently imbezilled ; and on Refusal, to break open any such House. Persons opposing such Search shall for every Offence forfeit 10 £ to any who will inform and sue for the same within two Calendar Months, in the Courts at *Westminster*, by Action of Debt, &c. And if it shall appear by the Oath of one or more Witnesses, or on Search of such House, that such Person hath in his Custody any such Goods, the Justices shall cause them to be restored to the Owner, and oblige the Party offending to make Satisfaction to such Owner for the Damage in detaining the Goods and Charges in getting the same ; and the Party refusing so to do shall be subject to the like Punishment as is by the said Act provided to be inflicted on such Journeymen, &c. so fraudulently imbezilling, &c.

Any Person employed by one Shoe-maker and retained by another before he hath finished his Work, being convicted on Oath before one Justice, shall be sent to hard Labour in the House of Correction, not exceeding one Month.

There lies an Appeal to the next Sessions, giving Eight Days Notice, whose Determination shall be final, Shoe-maker leaving his Master and going to another before he has finished his work, to be sent to Bridewell.

## Silk-Throwing.

**N**O Person shall use, exercise, continue, or set up the Trade of a Silk-Thrower, unless he is or shall be Apprentice to that Trade, or have served Seven Years Apprenticeship thereto, upon Pain to forfeit 40 s. for every Month ; one Moiety to the King, the other Moiety to the Prosecutor, by Action of Debt, Bill, Complaint, or Information, or by other lawful Means (*inter alios*) before the Justices of Peace at their Quarter-Sessions. 14 Car. 2. c. 15.

If any Silk-Winder or Doubler, imbezil, pawn, or detain any Silk delivered to them to wind or double, every Winder or Journeyman so offending, and the Buyers and Receivers thereof, being convicted by Confession or the Oath of one Witness, before any Justice of Peace of the County or Liberty ; or if with-

No Person to use the Trade of a Silk-Throwster, without being Apprentice Seven Years, &c. Punishment of Winder, &c. imbezilling Silk.



## Silk-Throwing.

in a Town-Corporate, before the chief Officer of the same, who may hear and determine, and give the Party damnified such Satisfaction for their Loss, Damage, and Charges, as they shall order, so as no more be awarded than the Party is damnified, and hath expended in looking after it. And if the Party be not able, or do not make Recompence in fourteen Days after Conviction, he shall for the first Offence be apprehended and whipped, or set in the Stocks in the Place where the Offence was committed, or some Market-Town of that County near thereunto; and for the second Offence shall be punished as before. *Ibid.* 20 *Car.* 2. c. 6.

To whom it extends.

By the Stat. 8 & 9 *W.* 3. c. 36. the Clause above extends to all Persons who shall imbezil Silk, or pawn, sell, or detain it, being delivered to any one who manufactures it, their Agents, Journeymen, Warpers, or Winders.

Buyers of Silk imbezilled.

The Receivers and Buyers of Silk imbezilled, knowing it to be so, shall be subject to the like Punishment as the Person imbezilling. *Ibid.*

Silk-Throwers may let on work any Native, &c.

Any Freeman of the Company of Silk-Throwers may let on work any native Subjects of his Majesty's, whether Men, Women, or Children, to turn the Mill-work, tie Threads, double Silk, and wind Silk, as formerly, although they have not served as Apprentices to that Trade by Seven Years. 14 *Car.* 2. c. 15.

Return of a Certiorari, &c.

Upon a *Certiorari* directed to the Lord Mayor of London, for all Orders by him made against one B. he returned that by Virtue of the Statute of 13 & 14 *Car.* 2. c. 15. for the regulating the Trade of Silk-Throwing, he had convicted B. for buying Silk of the Winder, upon the Oath of the Seller, and had adjudged B. to pay the Value to the Owner, and his Charges. Exception was taken, that the Seller was *particeps criminis*, and so no competent Witness. 2. That Judgment ought to be given against the Seller, for the Act makes him an Offender also; but these were both disallowed, and the Return ruled to be good. *Pastb.* 33 *Car.* 2. *Foxes's Rep.* 2. p. 155. *Rex ver. Benison.*

An

An Order for the Payment of Monies to a Silk-Throwster by his Workmen, who imbezilled his Silk.

Essex. ff. **W** Hereas upon the Complaint of A. B. of C. 13 & 14 Car. 2. c. 25. 20 Silk-Throwster, made that he having deliver- ed to C. D. of E. Silk-Winder (or Doubler or Journey- man) Ten Pounds of Silk to be by him silk-winded (or silk-doubled) for the said A. B. and that the aforesaid C. D. hath unjustly, (deceitfully, and falsly purloined, imbezilled, pawned, sold, or as the Case is) detained Six Pounds of Silk, Parcel thereof: Which Complaint, upon my Examination of the same, (according to the Form of the Statute in that Case made) having been made apparent unto me to be true, I have thereupon determined the Offence aforesaid, and do hereby order and appoint the said C. D. shall pay to the said A. B. the Sum of 40s. for his Damages, Losses, and Charges thereabouts, within Fourteen Days next ensuing. Given under my Hand and Seal, &c.

## Smuglers.

**B**Y Stat. 8 Geo. 1. c. 18. any Persons found passing Smuglers, &c. knowingly with any foreign Goods landed with- out due Entry and Payment of the Duties, from any of the Coasts, or within Twenty Miles thereof, and shall be more than five in Company, or shall carry any offensive Weapons, or wear any Mask or Disguise, when passing with such Goods, or shall forcibly resist any Officer of the Customs or Excise, in seizing Run Goods, shall be Guilty of Felony, and be transported for Seven Years; and if he return before that Time, it is Felony without Benefit of Clergy

And all Persons receiving or buying any Goods, Wares, or Merchandises, clandestinely run or imported before the same shall have been legally condemned, knowing the same to be so clandestinely run or imported, being convicted on the Oath of one or more credible Witnesses or Confession, before one Justice

Persons buying Run Goods, &c. forfeit 20l.

Justice of Peace, shall forfeit 20 l. to be levied by Distress and Sale, &c. And for Want of Distress, shall be committed to Prison without Bail or Mainprize for Three Months; the one Moiety of the above Penalty to the Informer, the other to the Poor of the Parish where the Offence was committed.

Seizures of  
Boats, &c. of  
15 Tons or un-  
der, deter-  
minable by  
two Justices.

All Seizures of Vessels or Boats of 15 Tons or under, which shall be made after the 25th of *March*, 1722, by Virtue of the A<sup>t</sup> 8 *Ann.* for granting to her Majesty new Duties of Excise, &c. and of an A<sup>t</sup> for continuing several Impositions, &c. to raise Money by Loan for the Service of the Year 1710, or any other A<sup>t</sup> relating to the Revenue of Customs for carrying uncustomed or prohibited Goods from Ships inwards, or for relanding Certificate, or Debenture Goods from Ships outward bound: And all Seizures of Horses or other Cattle or Carriages whatsoever, for being used in the Removing, Carriage or Conveyance of such Goods, contrary to the said A<sup>ts</sup>, are to be examined into, proceeded upon, heard, adjudged, and determined by two or more Justices of Peace, residing near the Place where such Seizure shall be made, whose Judgment shall be final, and not liable to Appeal or *Certiorari*. Stat. 8 *Geo.* 1. c. 18.

Any two Justices for *London* and *Westminster* shall have the like Power in determining such Seizures as shall be made within those Cities, as any two Justices of any other County or Place have. *Ibid.*

This A<sup>t</sup> to continue for Two Years, commencing from the 25th of *March*, 1722, and from thence to the End of the next Sessions of Parliament.

## Soldiers.



## Soldiers.

**I**T is against the Law of *England* to keep up an Army in the Time of Peace, without an Act of Parliament.

By 43 *El. c. 3.* the Quarter-Sessions are to charge every Parish towards a weekly Relief of maimed Soldiers and Mariners, so as no Parish pay weekly above 10 *d.* nor under 2 *d.* nor any County which consists of above 50 Parishes pay above 6 *d.* one Parish with another. Q. Sessions to charge Parishes towards Relief of maimed Soldiers.

And by the same Statute, upon a Certificate under the Hand and Seal of the chief Commander or Captain, under whom a Soldier or Mariner served, a Quarterly Pension is to be allowed him till revoked or altered; he who hath not born Office not to exceed 10 *l.* an Officer under a Lieutenant 15 *l.* a Lieutenant 20 *l.*

A Person commanded to muster absenting himself without lawful Excuse, or not bringing his best Arms, is to suffer Ten Days Imprisonment, unless he agrees to pay 40 *l.* to be estreated into the Exchequer, by Stat. 4 & 5 *P. & M. c. 3.* Person absenting himself from Musters.

And by the same Statute, any Person authorised to muster or levy Soldiers, exacting or taking any Reward to discharge or spare any from the Service, forfeits Ten Times so much as he shall exact or take, one Moiety to the Crown, the other to the Prosecutor. *Ibid.* Forfeitures of Persons discharging Soldiers for Reward.

Thus stood the Old Law; but this is now of little Use since the Revolution in 1688. that the Right to the Crown became disputable. By some it has been thought adviseable, by Consent of Parliament, to keep up a standing Army, even in Times of Peace; and to that End several Acts of Parliament have from Time to Time been made for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters; which being all much the same, I shall here give you a short Abstract of the last, which was passed *Anno 13 Geo. 1.* in Alphabetical Order.

Buying Arms, Clothes, Furniture, &c. belonging to the King, or changing the Colour of such Clothes, Furniture, &c. Arms, Caps, Clothes, Furniture.

## Carriages.

any Defenter, knowing him to be so, forfeits 5*l*. to be levied by Distress. 13 Geo. 1.

All Justices within their several Counties, &c. shall, upon Order from his Majesty, or the General of the Forces, or the Master General, or Lieutenant General of the Ordnance, issue out Warrants to the Constables, &c. to provide Carriages, the Officer paying to the Constable in Hand,

For a Waggon and five Horses, or for  
Per Mile { four Oxen and two Horses, or six Oxen,  
1*s*.

Per Mile { For a Cart and four Horses 9*d*. and so  
proportionably.

And so proportionably for lesser Carriages.

And the Constables shall appoint such Persons as they shall think proper to furnish such Carriages. Officer making a Carriage travel more than one Day, or not discharging the same in due Time, or suffering any to ride therein, (except the sick and wounded) or force any Constable, &c. by Threats, to provide any Saddle Horses, or force Horses from their Owners, forfeit for each Offence 5*l*. *Ibid*.

The Proof must be upon Oath before two Justices, who are to certify it to the Paymaster General, who shall pay it, and deduct it out of his Pay.

No Waggon shall be obliged to carry above twenty Hundred Weight. *Ibid*.

Constables not executing such Orders or Warrants, or any other Person hindering the Execution thereof, shall forfeit, not exceeding 40*s*. nor under 20*s*. to the Poor of the Parish; to be determined by two Justices of the Peace, and levied by Distress and Sale, &c. *Ibid*.

The Treasurer of the County shall pay the Constables all reasonable Sums laid out for Carriages above what ought to have been paid by the Officer out of the publick Stock, according to the Justices Direction, Regard being always had to the Season of the Year, and Length and Condition of the Ways. And if the publick Stock be not sufficient, the Justices may raise Money, as for County Gaols and Bridges, to satisfy the extraordinary Charge. *Ibid*.

Carriages, for the Service of the Forces quartered or marching in Scotland, shall be provided and paid at

the Rates, and in such Manner, as by the Laws in Force in *Scotland* at the Time of the Union. *Ibid.*

Constable, &c. may take up any Person suspected Deserter. to be a Deserter, and bring him before a Justice; and if upon Examination he shall be found to be a listed Soldier, the Justice shall send him to the County-Gaol, and give Account thereof to the Secretary at War. *Ibid.*

Justice, &c. may by Warrant directed to the Collector of the Land-Tax, order him to pay 20*s.* to any Person taking a Deserter, out of the Land-Tax, for the Year 1727. *Ibid.*

Persons concealing any Deserter, shall forfeit 5*l.* or buying or receiving from any Soldier or Deserter any Arms, Clothes, Furniture, &c. belonging to the King, or changing the Colour of such Clothes, shall forfeit 5*l.* to be levied by Distress. One Moiety of the first mentioned 5*l.* to be paid to the Informer, and the Residue of the said Penalties to the Officer to whom such Soldier did belong. *Ibid.*

No Officer may break open any House to search for Deserters, without Warrant from one or more Justices, on Forfeiture of 20*l.* *Ibid.*

And by Statute 1 Geo. 1. c. 3. if any Person persuade or procure, or endeavour to persuade a Soldier to desert, he shall forfeit 40*l.* which Penalty is by the Act 4 Geo. 1. c. 4. made recoverable in any of the Courts at *Westminster*, &c.

No Volunteer shall be taken out of the Service by any Law Process, other than for a criminal Matter, unless for real Debt or other just Cause of Action; in which Case, before the Taking out such Process or Execution, the Plaintiff, or some other Person in his Behalf, make Affidavit before a Judge of the Court of Record, or other Court out of which the Process issues, that the Sum is really due, or that the Debt or Damages amount to 10*l.* at least: A Memorandum of which Oath shall be made on the Back of the Process, for which no Fee shall be taken. Any Person arrested contrary to this Act, the Judge, on Complaint by the Party himself, or by his superiour Officer, may examine into it on Oath, and discharge the Soldier without Fees, and may award Costs to be recovered as the Plaintiff might have done.

Plaintiff, on Notice given in Writing of the Cause of Action, to such Person, or left at his last Place of Residence before Listing, may file a common Appearance in any Action to be brought for any Debt, so as to



to intitle him to proceed thereon to Judgment and Outlawry, and to Execution, other than against the Body of him so voluntarily lifted. *Ibid.*

Deserting beyond Sea, and coming into *England* or *Ireland* before he be tried by a Court Martial for such Offence, such Officer or Soldier shall be tried for the same, as if the said Offence had been committed within the Realm. *Ibid.*

This Act shall not exempt Officers or Soldiers from the ordinary Process of Law in criminal Matters, nor extend to the Militia of this Kingdom or *Ireland*. *Ibid.*

And no Person acquitted or convicted of capital Crimes, Violences or Offences, by the Civil Magistrate, shall be punished for the same by a Court Martial, otherwise than by cashiering. *Ibid.*

Departing.

A Captain (for Reward) licensing a Soldier to depart, forfeits ten Times the Value of the Thing taken, to be divided between the King and Prosecutor, and to be recovered before Justices in Sessions. 4 & 5 P. & M. c. 3.

Felony.

Going beyond Sea to serve foreign Princes, not having before they go taken the Oath of Allegiance, is Felony. 3 Jac. 1. c. 4.

If he is a Gentleman or Officer, and going to serve a Prince, not being bound with two Sureties not to be reconciled to the Pope, or to consent to any Conspiracy against the King, 'tis Felony. *Ibid.*

Taking Press-Money, and departing without Licence, 'tis Felony. 7 H. 7. c. 1. 3 H. 8. c. 5. 5 El. c. 5. and by Stat. 2 & 3 Ed. 6. c. 2. the Trial is to be in the County where he is apprehended.

Coming from beyond Sea, and wandring idly, without a Testimonial from a Justice of Peace, (near the Place where he landed) expressing the Time and Place of their Landing, and whither they are to pass, and a Time limited for passing; or if they exceed that Time; 'tis Felony by 39 El. c. 17. and Forging or Counterfeiting such Testimonial, is Felony.

Game.

If any Officer or Soldier, after March 24, 1726. without Leave of the Lord of the Manor, destroy any Hare, Coney, Poultry or Fish, or his Majesty's Game, and be convicted before any Justice, such Officer shall forfeit 5 l. to the Poor, and every Soldier 20 s. And such Officer not paying within two Days the said Penalties, shall forfeit his Commission. Stat. 13 Geo. 1.

Officer,

Officer, when he receives the Pay of a Regiment, Inn-Keepers Troop or Company, must, within 4 Days, give publick Notice to Inkeepers; and before they distribute the Money to the Soldiers, must pay and discharge the Inkeepers, &c. Accounts; provided they have no more of a Commission-Officer of Horse, under the Degree of a Captain, for Diet, Small Beer, Hay and Straw, *per Diem*, than 2 s.

For such Commission-Officer of Dragoons, 1 s. 6 d.

For a Commission-Officer of Foot, 1 s.

And if he has a Horse, then for that Horse, 6 d.

Light Horsemen, Diet, Small Beer, Hay and Straw, *per Diem*, 1 s.

Dragoon 9 d.

Foot-Soldier, Diet and Small Beer, *per Diem*, 4 d.

Officer refusing to pay the same, upon Account produced, and Oath made by two Witnesses at next Sessions, the Justices may certify to the Pay-master of the King's Forces the Sum due, who shall pay the same out of the Arrears of the Offender, or lose his Place; and if no Arrears are due, then he shall deduct it out of the next which shall be due, and the Officer shall be cashiered. And where Quarters are not paid as the Act directs, and Horse and Foot are upon their March, so that no present Subsistence can be remitted, in such Case every Officer shall make up his Accounts before he leaves his Quarters, and give a Certificate, by him signed, to the Party to whom the Money is due, with the Name of the Regiment, that it may be transmitted to the Pay-master, who is immediately to pay the same. *Ibid.*

Any Person making or giving a false Certificate to excuse a Soldier to be absent at a Muster, forfeits 50 l. and to be cashiered, and disabled from holding any military Office. *Ibid.*

Officers making false Musters, &c. and Commissaries signing such Muster-Roll, on Proof, by Oath of two Witnesses before a general Court Marshal, shall be cashier'd, and disabled from holding any Employment, and forfeit 100 l.

Every Commissary, &c. shall give Notice to the Mayor, &c. where the Soldiers to be mustered are quartered, who is to be present, and assist for discovering any false Muster, &c. and the Commissary not giving such Notice, shall forfeit 50 l. and be discharged from his Office; and no Muster-Roll shall be allowed, unless signed by the Mayor, &c. But if such Mayor,

Mayor, &c. shall not attend, or refuse to sign the Roll, then the Commissary may muster such Regiment, &c. without incurring any Penalty, and the Muster-Roll shall be allowed, on Oath, within forty-eight Hours after such Muster, before a Justice, and the Muster-Rolls shall be examined by the Justice, who is to sign the same.

Next Justice may commit to the House of Correction Persons falsely mustering, or offering so to be, there to remain for ten Days. *Ibid.*

Lending a Horse to be mustered, forfeits the Horse, if his own; if not, then 20 *l.* upon Oath of two Witnesses before the next Justice; the Forfeitures to be paid out of his Pay or Goods by a Court-Martial. *Ibid.*

And if he hath no Goods, he shall be sent to the Common Gaol, without Bail, for six Months; this Forfeiture to be paid to the Informer; and if he is a Soldier, shall be discharged, if he demand it: And Officers mustering any Person by a wrong Name, knowingly, shall suffer as in Case of false Musters. *Ibid.*

No Muster in *Westminster* or *Southwark*, but in Presence of two or more Justices, not being Officers of the Army, under the afore-mentioned Penalty, unless the Justices, on forty-eight Hours Notice, refuse to attend, &c. and the Justices are to sign the Muster-Rolls, and examine the Truth thereof, before they sign the same. *Ibid.*

The Surgeon, or his Mate, shall, within the Cities of *London* and *Westminster*, and ten Miles of the same, certify, on Oath, to the Muster-master, that he hath actually seen such Persons as he certifies, to be sick; and the Commanding Officer shall certify the Names of such others as shall be employed in raising Recruits; and if such Certificate prove false, he shall suffer such Penalties as those that make false Musters; and the Commissary is to insert in the Docket annexed to the Muster-Roll, the Place where, and Day when taken. *Ibid.*

Every Officer or Soldier in the Army, who shall, before the 25th of *March* 1728, excite, cause or join in a Mutiny, either in or out of *England*, either on the Land or Sea, or shall refuse to obey his superior Officer, or resist his superior Officer in the Execution of his Office, or shall strike his superior Officer, or draw, or offer to draw, or lift up any Weapon against him,



him, or desert or list in any other Regiment, &c. without a Discharge, or shall either upon Land or Sea hold any Correspondence with any Rebel or Enemy, or give them Intelligence by Letters, Messages, Signs Signs or Tokens, or any manner of Way or Treat, or enter into any Condition with them, without Licence, shall suffer Death, or such other Punishment as by a Court Martial shall be inflicted. *Ibid.*

By Stat. 4 & 5 P. & M. c. 3. detaining Pay of Soldiers above ten Days, shall give the Soldier treble as much. Justices in Sessions may determine this Offence, and commit till Payment of the Forfeiture.

4 & 5 P. & M. c. 3.

But by Stat. 13 G. 1. aforesaid, it is enacted, That an exact Account shall be made of all Money due, according to the Muster-Rolls, to every Regiment in the Service, between the Pay-master General, &c. and the Colonel of every such Regiment, &c. *viz.* When four Months become due, an Account shall be stated for the first two preceding Months, and registred in a Book to be kept in the Pay-Office, and subscribed by the Pay-master, &c. and Colonel, &c. and a Duplicate signed, given to the Colonel, &c. without Fee, who is to deliver to each Captain an Account of what belongs to him and his Troop or Company, and the Balance which shall remain; and all other Money then due to such Regiment, shall be paid as his Majesty directs; the Pay-master General, or other Pay-master, offending herein, forfeit 100 *l.* for every Offence; and any Pay-master, &c. offending, shall lose his Place, and pay 200 *l.* to the Informer; and any Colonel offending, shall forfeit 100 *l.*

If any Pay-master, Agent, &c. wilfully detain any Officer's or Soldier's Pay one Month, (Cloaths and just Allowances deducted); or any Officers having received the Soldiers Pay, shall refuse to pay it when due; *viz.*

- |                   |   |                                          |
|-------------------|---|------------------------------------------|
| Of the<br>Guards. | { | To a Corporal of Light Horse, 17 s. 6 d. |
|                   |   | To a Trumpeter and Trooper, 14 s.        |
|                   |   | To a Dragoon, 11 s. 9 d.                 |
|                   |   | To a Serjeant, 7 s.                      |
|                   |   | To a Corporal and Drummer, 5 s.          |
|                   |   | To a Foot-Soldier, 4 s.                  |

Per Week.

- |                 |   |                                         |
|-----------------|---|-----------------------------------------|
| In the<br>Army. | { | To each Serjeant, 6 s.                  |
|                 |   | To each Corporal and Drummer, 4 s. 6 d. |
|                 |   | To a Foot-Soldier, 3 s.                 |

Per Week.

And

And 6 *d.* more to each Foot-Soldier at every 2 Months End: Neglecting, upon Proof to a Court Martial, forfeits 100*l.* to the Informer, and be disabled; and the Informer, if a Soldier, shall be discharged.

Pay-master shall receive no Fees, nor deduct more than usual for Cloaths, besides One Shilling per Pound, to be disposed as the King shall think fit; and one Day's Pay in the Year to the Use of Chelsea Hospital; and such other Deductions as shall be directed under the Sign Manual.

Every Pay-master and Agent, who shall be liable to account with any Executors or Administrators of any Officer or Soldier, shall, on Demand, deliver a just Account to such Executors, &c. of such Sums as they shall have received for such Officer or Soldier, such Executors, &c. paying for the same. And every Pay-master, &c. offending herein, shall forfeit the like Penalty, and to be recovered in like Manner as is appointed by the Act for Colonels or Agents not giving due Accounts of the Pay to the Officers and Soldiers. *Ibid.*

Persons sued upon this Act may plead the general Issue, and recover double Costs, &c.

This Act is to continue in Force from the 24th of March 1725 till the 24th of March 1727.

Quartering.

None shall be quartered upon Persons without their Consent. 31 Car. 2. c. 1.

During the Act of 13 Geo. 1. Constables, Tithing-men, &c. and in their Default, any one Justice, and no others, are to quarter Soldiers in Inns, Livery-Stables, Alehouses, Victualling-Houses, and all Houses selling Brandy, &c. by Retail, (Distiller's Houses and Shopkeepers, whose principal Dealings shall be more in other Goods than in Brandy, &c. and who do not permit Tippling in their Houses, and all private Houses, excepted,) but may not order more Billers than there are effective Soldiers. Any Soldier billeted on private Houses without the Owner's Consent, he may have his Remedy at Law. Any military Officer quartering Soldiers otherwise than as allowed, or using any Menace to the Civil Officers, being thereof convicted before two or more Justices, by the Oath of two Witnesses, shall be cashiered; provided the Conviction be affirmed at the next Quarter-Sessions, and a Certificate thereof transmitted to the Judge-Advocate, who is to certify the same to the next Court Martial; and

Person

Persons grieved may complain to the Justices and be relieved; and the Justices may order so many of the Soldiers to be removed as they shall see Cause. *Ibid.*

Officers and Soldiers shall pay reasonable Prices, to be appointed by the Sessions, who shall set reasonable Rates for all Provisions in their March.

Officers taking Money for excusing Quartering Soldiers, shall be cashiered and incapacitated.

If any High Constable, &c. shall receive or agree for any Money or Reward, to excuse any Person from quartering Soldiers, or if any Victualler shall refuse to receive them, and be thereof convicted before one or more Justices, &c. by Confession or Oath, such Constable, or other Person, shall forfeit any Sum not exceeding 5*l.* nor under 40*s.* to be levied by Distress and Sale of his Goods, by a Warrant of such Justice, directed to any other Constable of the County, or to any of the Overseers where the Offender shall dwell, to be paid to them for the Use of the Poor. *Ibid.*

Any one or more Justices may command the High Constable, &c. to give an Account in Writing of the Number of Officers and Soldiers billeted, with the Street and Place, &c. *Ibid.*

An Officer quartering Wives, Children or Servants, without the Owner's Consent; if a Military Officer, he shall be cashiered, upon Proof made to the Judge-Advocate; if a Civil Officer, he shall forfeit 20*s.* to the Party grieved, upon Proof made to the next Justice of Peace, to be levied by Distress and Sale. *Ibid.*

By the said Stat. 13 Geo. 1. Constables, &c. may quarter Soldiers of the Foot-Guards in *Westminster*, &c. in such Houses only as by that Act are limited, (*London* excepted) during the Act of 13 G. 1.

By the same Act, Officers or Soldiers accused of capital Crimes, Violences or Offences, are punishable by Law: On Application to the Commanding Officer, he is to use his utmost Endeavour to deliver over the accused Person to the Civil Magistrate, and be aiding and assisting to the Officers of Justice in apprehending him, in order to bring him to Trial; and any Commanding Officer refusing to deliver over an accused Person, or be assisting to the Officers of Justice, being convicted thereof before two Justices of the Peace, by the Oath of two Witnesses, he shall be cashiered: Provided the Conviction be affirmed at the next Quar-

Soldiers guilty of capital Crimes, to be delivered up to the Civil Magistrate.



Justices shall  
set disbanded  
Soldiers to  
work.

Person when  
listed must be  
carried before  
a Justice of  
Peace.

And not before  
a Constable.

ter Sessions, and a Certificate transmitted to the Judge-Advocate, who is to certify the same to the next Court Martial. *Ibid.*

If a Soldier come from beyond Sea to the Place of his Birth, and cannot get Work, two Justices shall take Order to set him to Work, or, for Want thereof, shall tax the Hundred for his Relief. 6 & 7 W. 3.

By 3 & 6 W. & M. c. 9, & 15, no Person that shall be listed for the Land-Service after the first of March 1693, shall be esteemed a listed Soldier, or be subject to any of the Pains and Penalties of that Act, or any other Penalty, for his Behaviour as a Soldier, who shall not have been brought before a Justice of Peace, not being an Officer in the Army, or Chief Magistrate of some City or Town Corporate, or High or Petty Constable in the Hundred, &c. where the Person shall be listed, and before such Justice, Magistrate, &c. declares his free Consent to be listed as a Soldier, before he be listed or mustered in any Muster-Roll of a Regiment, Troop or Company. And every Military Officer offending herein shall incur the like Penalty as any Officer is liable to for making a false Muster.

But by Stat. 6 & 7 W. 3. c. 8, no Person listed for Land-Service after the 10th of April 1695, shall be esteemed a listed Soldier, tho' he declares his free Consent to be listed as a Soldier before a Petty Constable, any thing in the last recited Act notwithstanding.

*An Alphabetical Abstract of the Acts 13 & 14  
Car. 2. c. 6. and 15 Car. 2. c. 4. for settling  
the Militia.*

**D**uring the Time of the Grand Rebellion, there was nothing which the then Parliament seemed to grasp at with more Eagerness, or to usurp from the Crown with more Pleasure, than the Power over the Militia, or the Command of the Train'd Bands, or the Military Force of the Kingdom.

But after the happy Restoration of King Charles the Second, when the Government was put into its ancient Channel, two Acts of Parliament pass'd for settling the Power of the Militia in the Crown, the one in the 13 & 14 Car. 2. c. 6. and the other 15 Car. 2. c. 4. an Abstract of both which follows in Alphabetical Order.

The Lords Lieutenants, or their Deputies, may examine on Oath the Ability of the Persons to be charged, but not the Persons themselves.

If a Soldier neglects to appear, two Deputies may commit him for five Days; or fine him, if a Horseman 20s. if a Footman 10s. But if it is the Person himself who is charged, then three Deputies may fine him 5s. to be levied by Distress and Sale, &c.

Deputy-Lieutenants, or their Officers, may charge Carts for carrying Powder and other Materials at 6d. per Mile, and for a Horse employed out of the Cart at the Rate of 1d. per Mile.

Officers and Soldiers of Cities, which are Counties of themselves, shall not be compelled to appear out of their respective Liberties to exercise.

If the Party charged neglects or refuses to provide the Foot-Soldiers, the Lieutenant or his Deputies may appoint Constables to provide them.

Covenants between Landlord and Tenant shall not be avoided by the Act.

**Soldiers.**

He who is charg'd to find a Foot-Soldier, must have in Possession *per Ann.* 50*l.*

Or personal Estate, other than Stock on Ground (and so proportionably) 600*l.*

He shall have *per Diem* 1*s.* or else his Master shall forfeit to him 2*s.* to be demanded within six Weeks after Default, or before next Muster.

Foot, and who shall be charged thereunto.

None who hath an Estate of 100*l.* *per Ann.* or personal Estate of 2400*l.* shall be charged to the Foot; but he who hath 100*l.* *per Ann.* and under 200*l.* *per Ann.* or is worth 1200*l.* in personal Estate, and under 2400*l.* may be charged either with Foot or Horse.

Horse, and who shall be chargeable.

Lieutenants, or three Deputies, may charge any; if with Horse and Arms, the Person must have in Possession *per Ann.* 500*l.*

Or in Goods or Money, besides the Furniture of his House, (and so proportionably) 6000*l.*

Horse.

None shall contribute to finding a Horse, who hath not in Possession a real Estate *per Ann.* of 100*l.*

And personal Estate in Possession worth 1200*l.*

Not sending out Horse, &c. nor paying the Money towards the Provision of Man and Horse, Lieutenant or three Deputies may fine him not exceeding 20*l.* to be levied by Warrant under their Hands and Seals, and employed for the same Uses.

Horseman shall have to maintain himself and Horse, *per Diem* 2*s.* 6*d.*

Must bring Powder and Bullets, of each a Quarter of a Pound.

His Arms shall be Back, Breast and Pot, the two last Pistol-proof, a Sword and a Case of Pistols fourteen Inches in the Barrel, a great Saddle with Burs and Straps, a Bit, Bridle, Pectoral and Crupper.

Imprisonment.

Lientenant, or his Deputy, may commit Mutineers, and those who do not their Duties at Musters, the Commitment not exceeding twenty Days, and fine them not exceeding 5*s.*

Two or more Deputies may commit him who imbezilleth Horses, Furniture or Arms, till he make Satisfaction.

Isle of Wight.

No Alteration made as to the Militia in the Isle of Wight.

Com



Commission of Lieutenantcy may be issued out by Lieutenants. the King, and the Lieutenants may call Persons together, and arm and form them into Companies, and conduct them to Places to suppress Rebellions, or resist Invasions, as the King shall direct.

They may give Commissions to Colonels, Majors and Captains, and other Commission-Officers, and present the Names of Deputies to the King; who approving them, the Lieutenant shall give a Deputation.

They may hear Complaints, examine Witnesses on Oath, and give Redress.

Lieutenantcy in London shall continue to list and levy the London Militia and Auxiliaries, as formerly. London Militia.

Upon Invasions or Rebellions, the Person charged shall provide a Month's Pay, &c. which shall be repaid out of the publick Revenue; and the Officers shall likewise be paid out of that Revenue for the Time they were in actual Service; and no Person shall be obliged to provide another Month's Pay until the first be discharged. Month's Pay.

He must live in the County, and once a Year every Muster and Horseman is to pay him 1 s. and every Footman 6 d. Muster-Master. by the Direction of three Deputy-Lieutenants; and, in Default of Payment, it may be levied on the Goods of the Person charged, if Default be found in the Soldier.

Shall bring Powder and Bullet half a Pound of each, Musketeer. and a Musket three Foot in the Barrel, the Bore to bear a Bullet of twelve to the Pound, but if fourteen, it shall be allowed; a Collar of Bandaleers and a Sword; if with Match-Lock, he must have three Yards of Match.

If the Person doth not live in the County where he is charged, three Deputies shall give Notice to his Servant or Chief Tenant, who are to convey it to the Landlord, and to bring his Answer: Then if he neglects to provide a Soldier, his Tenant shall do it; and if he refuse, then two Deputies may grant a Warrant to levy the Penalties; which see before in *Apparating.* Notice to the Person.

**Oaths.** Peers must take the Oath of Allegiance and Supremacy before six Lords of the Privy Council, or before others authorized by the King: One Justice of Peace may administer it to a Lieutenant not being a Peer: Lieutenants may administer it to Deputies, not being Peers; and they to their Officers and Soldiers.

**Officers of Foot.** Officers of Foot shall find no Soldiers or Arms in respect of their Estates.

**Pikemen.** Pikemen must bring Pikes made of Ash not under 15 Foot long; they must likewise have Back, Breast, Head-piece and Sword.

**Purbeck.** The Militia of the Isle of Purbeck shall remain separate from the County of Dorset.

**Peers, how to be charged.** By Commission from the King under the Great Seal, directed to twelve Peers, of whom five shall assess the Peer according to the Proportion in the Statute, (except only the monthly Taxes) and they shall put the Authorities in the Act in Execution, (excepting Imprisonment) the Charge and Penalties shall be certified to the Lieutenants; and then if any Default shall be made, &c. three of them may cause Distress to be taken, and sold, if no Satisfaction be given within a Week.

**Search.** Two Deputies, by Warrant, may employ Persons (of which a Commissioned and a Parish Officer shall be two) to search for and seize Arms of those who they shall think are dangerous: This Search must be after Sun-rising, except in Cities, Suburbs, Corporations and Market-Towns, and within the Weekly Bills.

**Serving in Person.** None shall be compelled to serve in Person; those who are provided by others must be approved by the Captain, and may be altered upon an Appeal to the Lieutenant or two Deputies: Persons so found and approved, must act under the same Penalties as in the Act; which see in *Appraising*.

The Persons thus approved must give in their Names and Places of Abode, at the next Muster, to two Deputies, or to some whom they shall appoint, that they may be listed; and if they afterwards desert, they shall

shall forfeit 20*l*. Neither shall they be discharged without Leave of two Deputy-Lieutenants, or the Captain, on the like Penalty, to be levied by Distress; and if no Distress, then to be committed, not exceeding three Months.

The Exercising or Training of Soldiers must not be above four Times in a Year, without special Direction from the King and Council, and must not continue to be exercised above two Days at a Time. Training of Soldiers.

Tenants shall deduct the Money out of the next Tenants Rent, unless the Landlord, within two Months after such Levying, make it appear that the Fault was in the Tenant.

Lord-Warden of the Stannaries, and such as he shall authorize, shall assess and muster the Tanners in Cornwall.

Constable and Lieutenant of the Tower may continue to levy the Trained Bands as formerly.

By Stat. 10 Ann. c. 25. the Lieutenantcy shall not issue any Warrant to levy Trophy-Money till the major Part of the Justices in Sessions shall have examined, stated and allowed the Accounts of Trophy-Money last raised for the Year preceding, and certified such their Examination of the said Accounts, under the Hands and Seals of three or more of them, to the respective Lieutenants, or their Deputies. not to raise Trophy-Money till settled by Quarter-Sessions.

And by Stat. 1 G. N. E. 11. the Collectors of the Trophy-Money must account for it at the General Quarter-Sessions, within twelve Months after the Receipt thereof, and pay the Balance to the Treasurer appointed to receive the same, within one Month, on Pain of forfeiting treble the Sum unaccounted for or unpaid; one Moiety to the Use of the County, as the Justices shall appoint, and the other Moiety to him who will sue for it. And Collectors of Trophy-Money must account for it at Quarter-Sessions.



A Testimonial of a Soldier come from beyond Sea for his quietly Travelling home.

32 Eliz.

Essex. ff. **W** Hereas A. B. a poor decrepit Soldier, who on, &c. of this Instant, &c. landed from, &c. at the Port of, &c. hath humbly requested of me C. D. Esq; one of his Majesty's Justices of Peace for the County of, &c. aforesaid, to grant him a Testimonial or Certificate of such his Landing, for his Safety and Preservation in his Travel to, &c. which he informs me is the Place of his Nativity, or where he was last settled here in England: I do therefore hereby certify the same accordingly, as aforesaid, and licence the said A. B. to travel and pass the direct Way from, &c. to the said, &c. and do hereby desire all Persons not to molest or trouble the said A. B. in his Journey, but to permit him to pass thither quietly, and without Molestation. Given, &c.

A Warrant to levy the Forfeiture of an Officer for killing Poultry, &c.

13 Geo. 1.

Essex. ff. **W** Hereas it has been duly proved before me, that A. B. Gent. a Lieutenant of Foot in the Company of, &c. in the Regiment commanded by, &c. did on, &c. last past, in the Backside and Grounds of C. D. of, &c. kill and destroy several Cocks and Hens, and other Poultry, without Leave of the said C. D. the Owner of the same; whereby he hath forfeited the Sum of 5 l. for the Use of the Poor of the said Parish of, &c. These are therefore, in his Majesty's Name, to command you to demand the said Sum of 5 l. of the said A. B. so by him forfeited, as aforesaid, and on Receipt thereof to pay and apply the same to the Use of the Poor of the said Parish of, &c. But if the said A. B. shall refuse to pay the said Sum of 5 l. that then you do certify the same to me, that such further Proceedings may be had as are agreeable to Law. Given, &c.

A War-

## A Warrant to employ a poor Soldier or Mariner, on Return from beyond Sea.

**W** Hereas A. B. of, &c. who has served for se-6 & 7. W. 3. several Years in the Wars in Flanders, and is lately returned from thence, has made Complaint unto me, that he the said A. B. since his Return to, &c. cannot get any Work or Employment to maintain himself, altho' he is willing, and hath offered his Service to several Persons: These are therefore, in his Majesty's Name, to command you forthwith to set the said A. B. at Work in your said Parish of, &c. for his Maintenance, and to keep him from becoming chargeable. Given, &c.

## A Warrant to levy the Forfeiture for not appearing at a Muster upon Notice.

**W** Hereas A. B. of, &c. Gent. Muster-master of the County 13 & 14 Car. 2. of, &c. aforesaid, has this Day given Information to us C. D. and E. F. Esqrs; Deputy-Lieutenants of the said County, that G. H. of, &c. who had due Notice and Warning to appear at the Muster held at, &c. on, &c. refused and neglected to appear at the said Muster with a Horse and proper Armour, and to send thither any Horse or Armour on his Behalf, contrary to the Statutes in that Case made: These are therefore, in his Majesty's Name, to command you to levy the Sum of 20 s. which the said G. H. hath forfeited by the Offence aforesaid, on the Goods and Chattels of the said G. H. by Distress and Sale thereof; and for your so doing, this shall be your Warrant. Given, &c.

A War-

## A Warrant to levy Muster-Money.

**W**E A. B. C. D. and E. F. Esqs; three Deputy Lieutenants for the County of, &c. aforesaid, do hereby direct, charge, and require the several Persons mentioned in the List hereto subjoined, to pay to G. H. Gent. Muster-Money of the said County of, &c. the several Sums of Money expressed in the said List annexed, from them due and in arrear for one Year's Muster-Money; and in Case they or any or either of them shall neglect or refuse to pay the said several Sums of Money, or any or either of them, then we do hereby authorize and empower the said G. H. and the several Constables, &c. by him appointed in the Liberties or Divisions of, &c. to take and distrain the Goods of such of the said Persons as shall refuse to pay the same, and levy it by Distress and Sale thereof. Given, &c.

## A Warrant to levy the Forfeiture of a Victualler refusing to quarter Soldiers.

13 Geo. 1.

**W**HEREAS A. B. Constable of, &c. hath this Day made Oath before me C. D. Esq. one of his Majesty's Justices of Peace, &c. that E. F. of, &c. Victualler, hath refused to quarter two Soldiers billeted upon him by the said Constable, according to the Statute, whereby he hath forfeited the Sum of 5*l*. These are therefore to command you to levy by Distress and Sale of the Goods of the said E. F. the said Sum of 5*l*. and to pay the same to the Church-wardens of, &c. for the Use of the Poor there. And for your so doing this shall be your sufficient Warrant. Given, &c.

## Spices.

All Spices, &c. must be garbled.

**A**LL Sorts of Merchandises garbleable in London and the Liberties, shall for the usual Fees be garbled by the City Garbler or Deputy, before they be sold, upon Forfeiture thereof, or the Value sold; and so if afterwards mix'd with Garbles. 1 Jac. 1. cap. 19.

The



## Soldiers. Squibs.

363

The Garbler of London, his Deputy, or Assigns, may enter (in the Day-Time) any House, Shop, &c. to see if the Wares, &c. be garbled, if not, to cleanse them, &c. Forfeiture shall be to the King and Informer. *Ibid.*

## Squibs.

**B**Y Statute 9 & 10 W. 3. c. 7. Making, Selling, or Making, &c. Uttering, or Offering, or Exposing to Sale any Squibs is a common Nuisance. Squibs, Rockets, &c. Serpents, or other Fire-works, or Permitting or Suffering any Squibs, &c. to be cast, thrown or fired out of Houses into any publick Street, &c. or Throwing, Casting, or Firing any Squibs, &c. or Aiding and Assisting therein, &c. is declared a common Nuisance.

And if any Person shall make or cause to be made, give, sell, utter, or expose to Sale any Squibs, &c. Forfeiture of making Squibs. and the same shall be proved by Confession or the Oath of two Witnesses, before one Justice of Peace, he shall forfeit 5*l.* to be levied by Distress and Sale of Goods, and apply'd one Half to the Poor, and the other to the Prosecutor. *Ibid.*

If any Person shall throw, cast, or fire, or be aiding and assisting in throwing, casting, or firing Squibs, &c. into any publick Street (except the Master and Commissioners of the Ordnance, &c. and the Artillery Company, or Militia, or Trained Bands) he shall Forfeiture of throwing Squibs, &c. forfeit 20*s.* to be employed *ut supra*. And if the Forfeiture be not immediately paid to the Justice, the Justice may by Warrant, send the Offender to the House of Correction without Bail, there to be set to hard Labour for any Time not exceeding a Month, unless he sooner pay the Forfeiture. The Conviction is to be as above-mentioned. *Ibid.*

If any Person shall permit or suffer any Squibs, &c. to be cast, thrown, or fired from, out of, or in his House, Shop, or other Part of his Dwelling or Habitation, into the Street, and thereof shall be convicted by Confession or Oath of two Witnesses, before one Justice, he shall likewise forfeit 20*s.* to be levied by Distress and Sale of Goods. *Ibid.*

Penalty of suffering Squibs, &c. to be thrown out of a House.

A War-

**A Warrant to levy the Forfeiture for throwing of Squibs, &c. by Distress, and if no Distress, to commit the Offender.**

9 & 10 W. 3.

**W** Hereas it has been duly proved before me, that on the 5th Day of November last, about Seven or Eight a Clock in the Evening of that Day, A. B. of, &c. threw and fired off several Squibs and other Fire-works in the publick Street called, &c. within the said City of, &c. to the Terror of the People passing the said Street about their lawful Occasions, and to the particular Damage of, &c. (or permitted Squibs, &c. to be fired out of his House, situate, &c.) contrary to Law, whereby the said A. B. hath forfeited the Sum of 20s. These are therefore in his Majesty's Name, to command you to levy the said Sum of 20s. on the Goods and Chattels of the said A. B. by Distress and Sale thereof, and pay one Half thereof to, &c. who hath informed me of the said Offence; and the other Half you are to apply to the Use of the Poor of the said Parish of, &c. and if there be no Distress whereof to levy the said Forfeiture; and if the said A. B. shall refuse to pay the same, then you are hereby required to convey the said A. B. to the House of Correction, there to remain and be kept at hard Labour for the Space of one Month, and until he shall be discharged by due Course of Law. Given, &c.

### Stamp Duties.

Felony without Benefit of Clergy to counterfeit Stamps, &c.

**B**Y Statute 9 Ann. c. 23. it was made Felony without Benefit of Clergy, to counterfeit or forge the Stamps on Paper, &c.

Every Commissioner and Officer acting in collecting the Stamp Duties, is to take an Oath mentioned in that Statute, before two of the Commissioners, or before one Justice. (See the Form of the Oath there). And the Justice is to give the Officer, gratis, a Certificate of his having taken the Oath.

Counterfeiting or Forging any Stamp made or used in Pursuance of the said Statute or Counterfeiting or Resem-

Resembling the Impression of the same, upon any Parchment or Paper, to defraud the Crown of the Duty, or Selling such Paper, &c. with a counterfeit Mark, knowing it to be so, or privately and fraudulently using any Stamp, thereby to defraud the Crown, is Felony without Benefit of the Clergy. *Ibid.*

To cause or procure to be forged or counterfeited any Stamp or Mark, to resemble any Mark or Stamp, provided, made or used in Pursuance of that or any Act relating to the Stamp-Duties, or to cause or procure any Vellum, Parchment, Paper, Cards, or Dice to be marked or stamped with such counterfeit Stamp or Mark, is likewise Felony without Benefit of Clergy, by Stat. 6 Geo. 1. c. 22.

If any Person after the 1st of August, 1712, shall write or print any Surrender or Admittance of or to any Copyhold Estate in Great Britain or Wales, or any Grant or Lease by Copy of Court-Roll, &c. (except the Surrender to the Use of a Will) or any Matter directed to be stamp'd by Stat. 10 Ann. c. 19. the Offender forfeits 10*l.* with full Costs for every Offence, one Moiety to the Crown, the other to the Prosecutor, with full Costs. *Ibid.*

Every Steward of a Manor, or his Deputy, offending and being convicted, over and above the said Forfeiture, shall lose his Place, and the Writing shall not be good or given in Evidence until 5*l.* shall be paid, as also the 10*l.* before mentioned, and a Receipt thereof be produced under the Hand of the Receiver-General of the Stamp-Duties or his Deputy, and until the Vellum, &c. be stamped. *Ibid.*

Persons writing or printing any thing on stamped Paper, after the Crown shall think fit to alter or renew the Stamps, after the Expiration of sixty Days, after such Intention of altering or renewing shall be published by Proclamation, forfeit the same as a Person writing on Paper not stamp'd.

Two or more Justices residing near the Place where any pecuniary Forfeiture, not exceeding 20*l.* upon any of the Statutes, relating to the Duties on Stamps, shall be incurred, may hear and determine the same in a summary Way, within a Year after the Offence committed, and may issue Warrants to levy the Penalties on the Goods of the Offender, and sell the same unless redeemed within six Days. *Ibid.*

*Vide* Statutes 5 & 6 W. & M. c. 21. and 9 Ann. c. 23.

Q. Whe-



## Stamp-Duties.

**Q.** Whether the Party offending may not be committed (if he has no Goods whereon to levy) till he pay the Penalty.

And mitigate the Penalties.

The Justices may mitigate the Penalties, the reasonable Charges and Costs of the Officers and Informers, being first allowed, and so as such Mitigation doth not reduce the Penalties to less than double the Duties over and above the Costs and Charges. *Ibid.*

Persons aggrieved may appeal to Q. Sessions.

Persons aggrieved by the Order of two Justices, may appeal to the next Quarter-Sessions, who may examine Witnesses on Oath, and finally determine the same, and issue Warrants to levy. *Ibid.*

No Certiorari lies, &c.

No Writ or Certiorari lies to supersede Execution or other Proceedings upon any Order made in Pursuance of the Statute. *Ibid.*

## Stolen Goods.

Taking Money to help Owner to stolen Goods without apprehending the Felon, &c.

**T**aking Money or Reward directly or indirectly, under Pretence, or upon Account of helping any Person to any stolen Goods or Chattels, unless such Person doth apprehend or cause to be apprehended such Felon who stole the same, and bring him to Trial, and give Evidence against him, shall be Guilty of Felony, and suffer in the same Manner as if he had stole such Goods himself, by Statute 4 Geo. 1. cap. 12.

Whoever shall discover, apprehend, and prosecute to Conviction of Felony without Benefit of Clergy, any Person for taking Money or other Reward, directly or indirectly, to help any Person to stolen Goods, (such Offender not having apprehended the Felon who stole the same, and brought him to Trial for the same, and given Evidence against him) upon a Certificate under the Hands and Seals of the two next Justices, shall receive the Sum of 40*l.* to be paid by the Sheriff. Stat. 6 Geo. 1. c. 23.

Stock

## Stock of the Shire.

**T**HE Parishioners, and in their Default the Church-wardens and Constables, are to assess the Tax imposed upon the Parish by the Justices at Easter-Sessions, towards the Relief of the Prisoners in the King's Bench, Marshalsea, Hospitals, Losses by Fire, &c. In Default of them any Justice of Peace, dwelling in that Parish, or (if none dwell there) the next Justice may assess the same: And the same Justice of Peace, or any other Justice of Peace in that Limit, in Default of the Church-wardens and Constables, may levy the same by Distress and Sale of the Offender's Goods, rendering to the Party the Overplus; and in Default of Distress, may commit such Persons without Bail, till they pay the same, by Stat. 43 Eliz. 2.

So toward Relief of maimed Soldiers, *mutatis mutandis*, only, the Justices may not commit. 43 Eliz. cap. 3.

If the greater Part will not meet, the Officers and such as will meet may tax; and where a Man is charged by Goods, they must be *bona notabilia*. *Vide* Taxations. *Where Goods are to be assessed.*

Also for Goods a Man shall be charged only in that Town where the Goods be at the Time of the Assessment. And if a Man be assessed for his Goods in D. when as he hath no Goods there, and be distrained for such Assessment, he may have an Action of Trespass.

Where a Man is charged only by his Goods, (in which Case desperate Debts are to be deducted) upon his Oath taken that his Goods, &c. are not of such Value as he is rated for them, the Justice must abate such Assessment accordingly.

If a Township be amerced, and the Neighbours do (by Assent) assess a certain Sum upon every Inhabitant, and agree that J. S. shall gather in, and that if it be not paid at such a Day, that J. S. shall distrain for the same. In such Case a Distress taken by J. S. for such Rates behind is good. *Dalt.* 339.

And Issues extreated upon the Parish, may by Order of Sessions, be equally rated upon the Inhabitants, and levied accordingly. Ord. 16 May. 8. Car. lib.

## Stock of the Shire.

*Seff. Pac. Midd. Consimil. Ord. for the Inhabitants of Fulham 9. Apr. 11 Car. 1. Inhabitants of Eling. Ord. 2. Dec. 9 Car. 1.*

## Stocks in Companies.

To counterfeit Letters of Attorney for transferring Stock, &c. is Felony without Clergy.

**B**Y Stat. 8 Geo. 1. c. 22. if any Person forge or counterfeit, or procure to be forged, or counterfeited any Letter of Attorney, or other Authority or Instrument, to transfer any Share in any Capital Stock, established by Act of Parliament, or to receive any Annuity or Dividend, or shall demand or endeavour to obtain any Shares in Stock transferred, or Annuities or Dividends to be received by Virrue of such forged Letter of Attorney, &c. or shall personate any real Proprietors, and thereby transfer or endeavour to transfer the Stock, or to receive the Money for the same, every such Person, being thereof convicted, shall suffer Death as a Felon.

## Stocks.

**C**onstables may only confine Delinquents in the Stocks by Way of Security, but not by Way of Punishment, or of Imprisonment, for they cannot commit to Prison without a Warrant.

What Persons may be set in the Stocks by Way of Punishment.

The Persons hereunder mentioned, may be set in the Stocks by Way of Punishment after Conviction.

*Artificers*, Two Days and a Night, refusing to work at Harvest.

*Clothier's Work-men* imbezilling Goods, second Offence.

*Drunkards*, six Hours, if not able to pay 5 s.

*Labourers* refusing Work in Harvest, two Days and a Night.



*Silk-Thrower*, Delivering Silk to one who imbezils it, if unable to make Satisfaction.

*Sunday*, Playing at any Sports, if he pay not 3 s. 4 d.

*Suspected Persons*, Watchmen may put in the Stocks to secure them.

*Swearing*, Stocks for two Hours, if he does not pay 2 s.

*Tipling*, Stocks for four Hours, if not able to pay the Penalty.

N. B. Escaping out of the Stocks, is a Breach of Prison.

## Superfedeas.

*Superfedeas* is sufficient, though it neither name the Sureties nor contain the Sum wherein they are bound, but it is better if it doth both. *Lamb. 96.*

After *Superfedeas* delivered to the Officer, if he insist on new Sureties, the Party may refuse, and if he be committed, the Party may have his Action. *Lamb. 29.*

*Superfedeas* out of the Chancery will discharge Surety of the Peace in the King's Bench; and a *Superfedeas* either out of the Chancery or King's Bench, will discharge a Precept for the Peace awarded by a Justice of Peace. And an Attachment lieth against him if he obeys not the Writ, and he may be imprisoned and fined for it. *Lamb. 99.*

And when a *Superfedeas* is received by a Justice of Peace out of a higher Court, he should forbear to make any Warrant; or if one be made, he ought to send out his *Superfedeas* to the Sheriff or other Officer, to desist to put it in Execution, tho' awarded against Law. *Ibid.*

Though a *Certiorari* to remove a Record is in it self a *Superfedeas* to the Justices, yet the Party may have a *Superfedeas* to the Sheriff, that he arrest him not upon the Justices Record. *Lamb. 525.*

An *Exigent* awarded against one indicted of Trespas before the Justices of Peace, may be stayed by *Superfedeas* out of the Chancery upon Surety found there to appear at the Day in the Writ, though he be taken upon it. *Lamb. Ibid.*

*Superfedeas* good, though neither Bail or Sum named. — If *Superfedeas* not obeyed, Party may bring his Action.

What a Justice must do on Receipt of *Superfedeas*.

*Certiorari* is a *Superfedeas*.

**Q.** Whether the Party bound, sending the *Superseas* to the Sessions, be discharged of his Appearance there. The Precedents are that the Party appeared, and prayed Allowance, &c.

### The Form of a Superseas by a Justice of Peace.

**J.** S. Esq; one of his Majesty's Justices of Peace within the County of B. to all Constables, &c. in the said County sendeth Greeting: Forasmuch as A. B. of, &c. Gardener, hath personally come before me at N. &c. and hath found sufficient Sureties, viz. D. E. of, &c. Labourer, and F. G. of, &c. Yeoman, each of which hath undertaken for the said A. B. under the Penalty of 20l. and he the said A. B. hath undertaken for himself, under the Penalty of 40l. that he the said A. B. shall well and truly keep the Peace towards our Sovereign Lord the King, and all his Liege People, and especially towards J. R. of, &c. Gent. and also that he shall personally appear before his Majesty's Justices of Peace, at the next General Sessions of the Peace, to be holden for this County at B. in this County. Therefore on the Behalf of our said Sovereign Lord the King, I command you and every of you, that you utterly forbear to arrast, take, imprison, or otherwise, by any means, (for the said Occasion) to molest the said A. B. and if you have for the said Occasion and none other, taken or imprisoned him, that then you do cause him to be delivered and set at Liberty without further Delay. Given at N. aforesaid, under my Hand and Seal, this last Day of, &c.

Suppl.

## Supplicabit. Vide Behaviour, &c.

**T**HIS Writ of *Supplicavit* is a Judicial Writ, 2 Cro. 669. granted out of Chancery or B. R. but not The King ver. without Special Cause upon Oath, and by Motion in open Court; for it is in Effect an Accusation of the Lord. 2 Cro. 356. Steyn-Justices below, as if the Party could have no Relief bridge. Godb. of them, and therefore was forced to apply himself to pl. 451. these above.

It is usually directed to one or more Justices, and sometimes to them and the Sheriff; but the Justice to whom it is first delivered ought to execute it, and to make Return. *Moyn. 699.*

And then the Justice acts as a Minister, and must execute it in every Particular, and make a Return under his Hand and Seal; and it is a judicial Writ, and cannot be executed by a Depury.

### The Form of the Writ.

**G**orgius Secundus Dei Gra' Magn' Britannie, &c. Rex dilectis & fidelibus suis J. S. It' & for-  
tius suis Justic' nostris ad pacem nostram in Com'  
Essex conserband' Magn' salutem Supplicabit nobis  
A. B. quod cum ipse vita & mutilatione membrorum  
suorum necnon de incendio domorum suarum per R.  
G. graviter & manifeste comminatus sit Melius  
pro securitate ipsius A. in hac parte prohibere nos  
supplicationi sue p'ced' annuentes vobis vel tibi p'ce-  
cipimus firmiter injungentes quod p'ced' R. G. co-  
ram vobis vel te venire faciatis ad sufficientes mas  
nucaptores inveniend' qui eum manucapere voluerint  
sub certa pena sibi p' te vel h'is rationabiliter impos-  
uend' pro qua nobis respondere volueritis vel volue-  
ris & si hoc coram vobis vel te facere recusaverit  
tunc ipsum R. G. p'xime Caule nostre committatis  
vel committas in eadem salbo custodiend' quousque  
hoc gratis facere volueris & cum securitatem illam ac-  
ceperitis vel reperitis nos inde coram nobis sub sigillis  
vestris vel alicujus vestrum vel sub sigillo tuo distinde &  
aperte sine dilatione certificetis vel certificet & hoc brevis  
nobis remittatis vel remittas Teste A. B. apud Westm',  
&c.



By the Clause in this Writ (*pro qua nobis respondere volueritis, &c.*) it is discretionary in the Justice to take what Security he shall think to be sufficient, but sometimes the Sum is mentioned in the Body of the Writ, and then he is bound up to take that Security and no other.

The Justice to whom this Writ is delivered may forthwith issue out his Warrant against the Party: The Form of which is thus:

### The Form of a Warrant upon a Supplicavit.

Essex. ff. **J.** S. Esq; one of the Justices of the Peace for the County aforesaid, to the Sheriff of the said County, and to the High Constable of the Hundred of C. and to the Petty Constables of, &c. and to the other Constables within the said Hundred of, &c.

Whereas I have received a Writ from the King, reciting that A. B. hath prayed his Majesty that he the said A. being in Danger of his Life or of some other bodily Hurt from R. G. his said Majesty would provide for the Security of him the said A. B. And thereupon his said Majesty by the aforesaid Writ, hath commanded me to cause the said R. G. to be brought before me to find Security for the Peace, or to commit him to Gaol if he shall refuse so to do, as by the said Writ Relation being thereunto had, it doth and may more at large appear: Therefore I do hereby command you and every of you, immediately upon Receipt hereof, to apprehend the said R. G. and cause him to come before me, to find sufficient Sureties for the Peace, to be from henceforth kept by him, as well towards his said Majesty as all his People, and more especially towards the said A. B. and if the said R. G. shall refuse so to do, that then you convey him to the common Gaol for the said County at C. there to remain until he shall willingly do the same. Given under my Hand and Seal, &c.

The Party must be brought before no other Justice but him who grants this Warrant, neither can any other discharge him by a *Superfedeas*.

When he is brought before the Justice, and he hath taken Security, as directed by the Writ, then he may return it thus, writing on the Back thereof.

*Executio istius brevis patet in quadam Schedula hinc brevi annexa.*

Then

Then he may file the Return to the Writ thus, in a Piece of Parchment by it self.

Ego J. S. Jr. un. Justic' Pacis in Com' Eller conserband' Assign' D'no Regi humillime certifico quod virtute hzebis infra script' mihi p' infra nominat' A. B. p'ius deliberat' causabi R. G. in dicto hzebi nominat' personaliter venire coram me apud, &c. 6 die Septemb'is ultimo elaps' & ad tunc & ibid. etiam causabi p'efat' R. G. in venire sufficien' securitat' pacis surta formam & effectum hzebis p'ed'. In cuius rei Testimoniu' huic Schedule manum & sigillu' meum apposui decimo octavo die Septemb'is Anno D'ni 1728.

The Justice need not return the Recognizance, which is the Security by him taken, as aforesaid, nor make a Certificate till a *Certiorari* come for that Purpose; and when he returns that Writ, then he may write on the Backside of it,

Ego J. S. Jr. un' Justiciar', &c. virtute hzebis infra script' tenorem securitatis pacis cuius infra sit mentio D'no Regi humillime certifico prout in Schedule huic hzebi annex'. Dat' vicesimo die Octob'is Ann' 1728.

Then write the Recognizance *verbatim*, and file it to the *Certiorari*, and so send it up together.

When this is done, the Justice may grant a *Superseas* either in *Latin*, reciting the *Supplicavit*, or without it.

The Form of the *Superfedeas*.

To the Sheriffs, Bailiffs, Constables, and other of his Majesty's Officers within the County of Essex, and to every of them.

Essex. ff. **W** Hereas R. G. of, &c. hath personally come before me J. S. Esq; one of his Majesty's Justices of Peace for the said County, and hath found sufficient Sureties (The best Way is to name the Parties, and in what Sums bound, but the *Superfedeas* is good without it.) well and truly to keep the Peace towards his said Majesty and all his People, but more especially towards A. B. of, &c. and also that he shall personally appear before the Justices of Peace at their next General Quarter-Sessions, to be held for, &c. Therefore on the Behalf of his said Majesty, I command you and every of you to forbear to arrest, imprison, or otherwise molest the said R. G. for or on the same account, and no other; and if he shall be taken or imprisoned for the same, that then you cause him to be forthwith discharged. Given under my Hand and Seal, &c.

The Party may also move the Court of B. R. for a *Superfedeas*; but this must be upon a *Supplicavit*, and not where the Justice proceeds *ex officio*; because by the Statute of 21 Jac. 1. c. 8. it must appear to the Court, that Process of the Peace or Good Behaviour is required against the Offender in that Court by the Party grieved, out of which the *Superfedeas* is desired.

## Suspicion.

Where Suspicion is sufficient Cause for Justice to commit.

Three Kinds of Suspicions.

**I**N many Cases, evident and positive Proofs cannot be had, and therefore probable Presumptions are good Causes of Suspicion, and sufficient for a Justice to commit the Person suspected.

Presumptions are either *Violente*, *Probabiles*, or *Leves*; some Presumptions of the first Sort are so violent that scarce any Proof is able to contradict them:

As



As if a Man is taken with a bloody Knife upon a murdered Person, or flying from the dead Man, tho' no Body saw the Stroke actually given, yet there scarce needs any further Proof.

When a Felony is committed, any Man may arrest suspicious Persons, and carry them before a Justice of Peace, who may commit them or take a Recognizance for their Appearance at the next Assizes or Sessions.

Suspicion only, without Felony committed, is no Cause to arrest another.

A Felony being committed, any one may arrest suspicious Persons that be of evil Fame, &c. and if such Person make Resistance, the other may justify to beat him.

In an Arrest for Suspicion of Felony, the Party who causeth the Arrest must suspect him, and also shew some Cause of Suspicion; for otherwise every Man may arrest another for any Felony done. 1 Cro. 99. b. N<sup>o</sup>. 44.

*Communis vox & fama* that he did the Offence, is sufficient Cause of Suspicion, viz. where such a Felony is committed, otherwise not. *Vane autem voces Populi non sunt audiendæ.* What is sufficient Cause for Suspicion.

In Cases of Felony, &c. even the Confession of the Offender, upon his Examination before the Justice, is no Conviction, except he shall afterwards confess the same upon his Arraignment or Trial, or be found Guilty by Verdict of Twelve Men, &c. Where Confession of Offender is no Conviction.

But at Lent Assizes at Cambridge, Anno 4 Car. 1. before Sir Francis Harvey, upon the Arraignment of a Prisoner for Felony, his Examination, which was taken before the Justice of Peace, wherein he had confessed the Felony, was only given in Evidence, no other Evidence then coming in upon his Trial, and the Prisoner upon that his own Confession before the Justice of Peace, was found Guilty by the Jury of Life and Death, and had Judgment, &c. and so is the Course since. But allowed to be good Evidence.

At the Common Law, in an Action of false Imprisonment brought against the Constable or other Person, who has arrested another upon Suspicion of Felony, it is no Plea for them to say that the Plaintiff was suspected of Felony; but they must alledge that there was such a Felony committed, and that the Plaintiff was suspected for the same; for Suspicion only, without a Felony committed, no Cause to arrest another. 8 E. 4. 4 & 5 H. 7. 4.

Also the Defendant must alledge some Special Matter (in Fact) to prove that he who was arrested was suspected of Felony; (as to say) that the Party arrested is a Man of an evil Fame, or a vagrant idle Person, &c. otherwise one Man may arrest any other; yea, every Man in the Town may be arrested, when any Felony is committed.

But Constable may plead general Issue and give the Special Matter in Evidence.

But now by the Stat. 7 Jac. 1. c. 5. the Constable, &c. in the former Cases may plead the general Issue (Not guilty), and give the Special Matters in Evidence.

Also if the Constable or other Person shall arrest another upon Suspicion of Felony, by Virtue of a Warrant from a Justice of Peace, such Warrant shall excuse him, it being given in Evidence, &c. *Vide postea Tit. Warrants.*

## Swans.

Punishment of taking away Swans, &c.

**T**AKING away from his own or another Man's Ground, Swan Eggs of another Man's, upon Conviction by Examination of Witnesses, is Imprisonment for a Year and a Day, and Forfeiture of Ten Pounds. *Lamb. 446. 1 Jac. 1. c. 27.*

To steal Swans, though unmarked, if they are *domini*, and kept in a Man's Manor, Mote or private River, is Felony. So are Swans marked, though at large, so young Cignets. 7 Co. c. 17.

## Wearing.

## Swearing.

**B**Y the Stat. 21 Jac. 1. c. 20. if any Person prophanely swear or curse in the Hearing of any Justice, Mayor, &c. or shall be convicted of such Swearing, &c. by the Oath of two Witnesses, or Confession before any Justice or Mayor, &c. he shall forfeit for every such Offence, to the Use of the Poor, 1 s. Swearing, &c.

21 Jac. 1. c. 20. 3 Car. 1. c. 4. 17 Car. 1. c. 4.

The Prosecution was to be within 20 Days after the Offence, and the Penalty was to be levied by Warrant and Distress, &c.

And if no Distress was to be had, the Offender being above Twelve Years old, shall be set in the Stocks Three Hours; if under that Age, and the said Penalty not paid, then he was to be whipt by the Constable, by Warrant of the Justice, or by the Parent or Master, in the Presence of the Constable. *Ibid.*

But by the Stat. 6 & 7 W. 3. c. 11. which was made to amend and supply the Defects of the former Laws, the Conviction may be by the Oath of one Person. And the Forfeiture of One Shilling is confined to Day-Labourers, Common Soldiers and Seamen, but every other Person is to pay 2 s. for each Oath or Curse.

For the second Offence double the Forfeiture; for the third Offence, three Times as much as the first.

In Default of Distress, the Offender being above Sixteen Years of Age, shall be set in the Stocks for One Hour for every single Offence, and for more than one (if convicted at the same time) then Two Hours.

If under Sixteen, and shall not immediately pay, &c. he shall be whipt by the Constable, by Warrant of the Justice, or by the Parent, Guardian, or Master, in Presence of the Constable.

The Justice who omits the Duty of his Office, forfeits 5 l. one Moiety to the Informer, the other to the Poor.

If any Action be brought against any Officer, &c. he may plead the general Issue, and give the Special Matter in Evidence; and upon Verdict for the Defendant,



Offence to be proved within 10 Days.  
A& to be read in Churches quarterly.  
Justice must register Convictions.

fendant, or Nonsuit, or Discontinuance of the Plaintiff, the Defendant shall have treble Costs.

Every Offence against this A& shall be proved within Ten Days after the Offence committed.

The A& is to be read in Churches quarterly, under the Penalty of 20s. for every Omission.

The Justice, &c. or Head Officer, shall register in a Book all Convictions made before him upon this A&, and the Time, and shall certify the same to the next General Quarter-Sessions of the Peace for the County or Place, to be there kept upon Record by the Clerk of the Peace, to be seen without Fee or Reward.

### A Warrant to levy the Money for prophane Swearing.

To the Constable, &c.

6 & 7 W. 3. c. 11. One Justice, one Witness, 10 Days.

**E**ffex. ff. **W** Hereas it was this present Day duly proved before me that A. B. of &c. did, on Thursday the 20th Day of this Instant October, being then above Sixteen Years of Age, prophaneely swear four Oaths in the Parish of L. in the said County, by Reason whereof he hath forfeited to the Use of the Poor of the said Parish, Two Shillings for every Time he did so offend: These are therefore to require you forthwith to levy the said Forfeiture, being 8s. in the whole, upon the Goods and Chattels of the said A. B. by Distress and Sale thereof, and that you pay the same when levied, to the Church-wardens or Overseers of the Poor of the said Parish of L. where the aforesaid Offence was committed, for the Use of the Poor of the said Parish. And if no Distress can be taken as aforesaid, and in Case the said A. B. shall not pay the said Forfeiture, or give Security for the same, that then you do set him in the Stocks, there to continue by the Space of Two Hours. Given, &c.

A Cer-

## Swearing.

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### A Certificate of Conviction for Swearing.

**HEX. H.** I J. F. Kn. one of his Majesty's Justices of Peace for the said County, do hereby certify to the Clerk of the Peace of the County aforesaid, that the Persons whose Names are hereunto subscribed, were since the last Sessions, viz. on the Day of last, convicted before me, for swearing four prophane Oaths apiece. Given under my Hand and Seal, &c.

### Tanners. Vide Leather.

**BY** Statute 1 Jac. 1. c. 22. Persons exercising the Mystery of a Tanner, not having served Seven Years, except Widows or Children of a Tanner, brought up in that Trade Four Years, or to whom the Father or Mother shall leave a Tan-House, or a Person marrying such Widow or Daughter, shall forfeit all the Leather tanned, or Value; one Third to the King, the other to the Prosecutor, and the other to the City, Borough, &c. or Lord of the Liberty where Offence committed.

No Tanner shall cut or work Leather while they profess that Trade. None shall buy tanned Leather but such as work the same into Ware, on Forfeiture of the Leather or the Value. Sadlers and Girdlers may sell their Necks and Shreds, &c. Tanners over-liming Hides, or putting them into Tan-Fats before Lime be wrought out of them, or using in Tanning any Thing but Ash-Bark or Oak, or use Tap-wort, Malt, Meal, Lime, Culver Dung, or Hen-Dung, or suffer them to be frozen or parched with Fire or Sun; or shat tan rotten Hides or work them in other Sort than is ordered, forfeit every Hide so tanned and put to Sale, or Value, to be divided as before. No Hides for Upper-Soal Leather shall lie in the Woozes less than Twelve Months, nor Upper Leather less than Nine Months, on Penalty as before.

Na

Tann'd Leather must be sold in Fair or Market, &c.

Nor unless sufficiently tann'd.

Tanner must not be a Currier, &c.

Not tann'd Leather to be sold by Weighr. Duty on Hides, &c.

Tanners must give Notice of their Tan-yards.

Officers to enter the Tan-yard in the Day-time, &c.

No Tanner shall raise any Hide for Soal-Leather by Mixtures not fit for that Use, on the same Penalty.

No Person shall put to Sale tann'd Leather, red and unwrought, except in Fair or Market, unless searched and sealed before, nor offer to put to Sale before searched, &c. on Forfeiture of 6 s. 8 d. a Hide; for every Dozen of Calf-Skins or Sheep-Skins 3 s. 4 d. besides the Hides and Skins themselves, or Value, to be divided as before. No Person shall put to Sale Leather insufficiently tann'd or dried, on the Forfeiture of all such Leather, to be divided as before. Tanner hastning the Tanning of his Leather, by giving it unkind Heats with hot Wooze or otherwise, forfeits 10 l. to be divided as before, and stand in the Pillory the three next Market-Days. 3 l. Penalty for denying Search, or seizing bad Wares.

Tann'd Leather sold unwrought and unregistred, Loss of Leather, or Value; the same Penalty for buying such Leather. Using the Trade of a Currier, Shoemaker or Butcher, or any Artificer cutting or working Leather, loseth the Hides and Skins tanned. Forfeiture of Wares made of tann'd Leather, shall be disposed *ut supra*. Quarter-Sessions may hear and determine all Offences against this Act.

By Stat. 4. *Ja. 1. c. 6.* no tanned Leather is to be sold by Weight, on Forfeiture of the Leather.

By Stat. 9 *Ann. c. 11.* the former Statute of King James I. was confirmed, and a Duty was laid on Hides and Skins tanned, tawed or dressed; and by it 'twas further enacted, That if any Butcher or other Person offering to Sale raw Hides or Skins gashed or cut, forfeit 2 s. 6 d. for every Hide, and 1 s. for every Calf Skin, to the Poor and Informer.

Tanner shaving Hides or Skins before thoroughly tanned, so as to damage it, forfeits Skin or Value to Queen and Informer. Tanners to give Notice of their Tan-yards, Pits, &c. on Penalty of 50 l. to the Queen and Prosecutor; one third to the Queen, two to the Prosecutor.

To give Notice of Places for drying and keeping Hides, and when they take Skins, &c. out of the Mills, &c. and to permit Officers to take an Account of their Hides, &c. within two Days to make Entry on Oath, which Oath Justices or Supervisors of the Duty may administer.

Goods not to be removed before entred and marked. Officers to enter the Tan-yard in the Day-time; on Refusal, the Tanner forfeits 10 l. to be disposed of as before.



before. Tanner, &c. using a private Tan-yard, &c. or not giving timely Notice of taking Hides, &c. out of the Wooze, &c. or not making due Entries, or removing the same, or concealing them, &c. forfeit 20 l. to the King and Prosecutor, besides the Goods so concealed, &c. or Value. Tanner to give Notice two Days before Removal of Hides, &c. and to assist the Officer in selling and weighing the same, and to ascertain the Value by Oath, &c. Tanner not paying Duty within the Time, forfeits double the Sum; or carrying out more Hides, and before Duty first paid, forfeits double the Value of such Hides, &c. Tanner not keeping just Scales, &c. or removing Hides before Duty charged, or before marking, or not permitting them to be weighed, or not assisting in weighing; or any Buyer carrying away before marked, forfeit 50 l. to the Queen and Prosecutor, besides Hides, &c. which may be seized and forfeited. Col- lar-makers, &c. to be accounted Tawers, if they dress Skins. By Stat. 10 Ann. c. 26. two Justices may hear and determine Offences, &c. within three Months. Party not appearing on Notice, Justices may give Judgment, to be levied on the Goods of the Offender, and Sale in six Days; if not redeemed, Appeal to Quarter-Sessions. Justices may mitigate Penalties not more than a fourth Part. Felony without Clergy to counterfeit Stamps on Hides.

By Stat. 5 Geo. 1. c. 2. Commissioners for the Duty on Leather may order new Stamps, if Occasion require. Offenders for counterfeiting new Stamps, subject to the same Penalties and Forfeitures as by 9 Ann. All Tanners, Tawers, Dressers of Hides and Skins, &c. and Makers of Vellum and Parchment, shall keep their Hides, &c. and Vellum, &c. which have been duly stamped by the Officers for the said Duties, separate and apart from all other Hides and Skins, &c. which have not been duly stamped by the Officers for the said Duties: And shall also, from Time to Time, keep all such Hides, &c. as aforesaid, as from Time to Time shall have been last stamped by the Officers for the said Duties, separate and apart from all other Hides and Skins and Pieces, &c. which at any Time or Times before shall have been stamped by the Officers for the said Duties, during the respective Times heretofore mentioned (viz.) within the weekly Bills of Mortality, 24 Hours next after such Stamping; in other Places two Days after Stamping, unless the same shall sooner

sooner be weighed, &c. by the Supervisors, on the Forfeiture of 10*l*.

Tanner not giving an Account of his Stock, forfeits 50*l*. besides the Stock concealed.

Penalty of Officer taking Bribes, &c.

Officer taking any Fee or Reward for any Entry, Account, Permission, Certificate, Mark or Receipt, forfeits 5*l*. to the Party grieved for every Offence; Conviction to be by two Justices upon Oath, and the Prosecution within three Months after the Offence; but an Appeal lies to the Sessions.

Commissioners of Leather have the same Power as Commissioners of Excise, &c.

N. B. Commissioners of this Duty, by 9 *Ann. c. 11.* have the same Power as Commissioners of Excise, and all Commissioners and Officers are liable to the same Disabilities and Forfeitures as in 9 & 10 *W. 3. c. 24.*

Stat. 10 *Ann. c. 26.* lays additional Duties on Hides, &c. By the aforesaid Stat. 9 *Ann. c. 11.* is enacted, That after the Duty is paid, and Entry thereof made in the Officer's Book, he shall cause every Hide and Skin to be marked in such Place as the Tanner desireth; and if removed from the Yard or Drying-place by the Tanner, &c. or if any Buyer shall carry it from thence before it shall be marked, they shall respectively forfeit 50*l*. for each Offence, one Moiety to the Crown, the other to the Informer, and the Skins forfeited to the Crown.

Relanding of Leather shipped for Exportation is Forfeiture of the same, &c.

Relanding or putting on Shore again within Great Britain any Hides, Calve-Skins, Boots, Shoes, Gloves, or other Manufactures of Leather, shipped to be exported, is Forfeiture of the same, and the treble Value, one Moiety to the King, the other to the Informer: Mitigation, Prosecution and Appeal, *ut supra.* N. B. The Judgment of the Justices is final, &c. and no *Certiorari* to be brought or allowed, to remove any the Proceedings of the Justices of Peace relating to Offences committed against Stat. 9 *Ann. c. 11.*

Persons putting to Sale any Leather insufficiently tanned or dried, forfeit the Whole, to be divided *ut supra.* 1 *Ja. 1. c. 22.*

**Taxation.**

## Taxation.

**T**AXATION, whether for the Poor, main'd Soldiers, mending Bridges, Highways, &c. hath these Rules.

The yearly Value, not the Quantity of Land, is to be taxed.

He who keeps Land in his Hands in several Parishes, shall be charged in every Parish proportionably.

The Farmer, and not the Landlord, must be charged, neither ought the Landlord to be rated for the Rent reserved.

One may be rated as well for Goods as Land, but not for both.

The Charge must be on the Person, and the Goods must be charged only where the Goods are at the Time of the Assessment. *5 Co. 67.*

The Constable, &c. and major Part of the Parishioners, upon Warning in the Church, may make the Assessment; so the Church-wardens and greater Part of the Parishioners, for Church Charges.

Taxation may be made by the Officers, and such as will, where the greater Part will not meet; and Taxation made for the Publiick, as Making or Mending of Bridges, Highways, Causeys, Sea-Banks, &c. shall be upon all Persons, tho' they assent not. *5 Co. 63.*

It has been resolved, that if a Man live in the Parish where his Lands lie, and doth demise those Lands to others, the Poor's Rate in that Case ought to be charged on the Tenant, and not on the Landlord, in Respect of the Tenant's Occupation thereof.

A Man having Lands in other Parishes than where he lives, the same being in Lease, or not in Lease, he is to be taxed in the Parish where he lives, according to his visible Estate there, and not for his Lands or Rent in another Parish. *Dalt. 219. c. 73.*

**Taxpayers.**

How Assessments are to be laid and made.

Rules of Taxation.



## Taylors.

All Combinations of Taylors, illegal and void.

Penalty of Taylors giving greater Wages than allowed by Law, and all such Agreements void.

The Rates allowed by Law.

**B**Y Stat. 7 Geo. 1. c. 13. 'tis enacted, That all Contracts entered into with or by or between Persons professing themselves to be Taylors, or Journeymen Taylors, in *London* or *Westminster*, or within the weekly Bills of Mortality, for advancing their Wages, or lessening their usual Hours of Work, shall be void; and every Person offending, being convicted thereof on the Oath of one or more Witnesses before two Justices of the Peace, shall be committed to the House of Correction, or the Common Gaol, for any Time not exceeding two Months. Prosecution to be within three Months after the Offence committed.

Taylors giving greater Wages than this Act allows, on Conviction within three Months after the Offence, forfeit 5 *l.* one Moiety to the Informer, and the other to the Poor of the Parish; and every Journeyman accepting the same, shall be sent to the House of Correction for two Months.

All Retainers, Promises, or Securities for greater Wages shall be void; but where an Agreement is made for more Wages, to work before or after the Hours limited, or to be limited, in such Case more Wages may be paid and received.

The Wages ascertained are 2 *s.* *per Diem*, from the 25th of *March* to the 24th of *June*, and 1 *s.* 6 *d.* *per Diem* the rest of the Year. And the Hours of Work are from Six in the Morning till Eight at Night, with an Allowance of half an Hour for Breakfast, and of one Hour for Dinner.

Justices within their Limits, at their Quarter-Sessions, may alter the Wages and Hours of Work, on considering the Plenty and Scarcity of the Time; and all Taylors and their Journeymen are to observe the same, on Pain of Imprisonment, for any Time not exceeding two Months.

If any Person retained as a Journeyman shall depart from his Service before the End of the Time agreed, or the Work for which he was retained shall be finished, or not being already retained, shall refuse to work the Hours for the Wages appointed, without some reasonable

sonable Cause, to be allowed by two Justices of Peace, he shall be sent to the House of Correction, and be kept at hard Labour for two Months.

Any two Justices, on Complaint for Non-payment of Wages, may summon the Party offending, and issue their Warrants for levying the Wages by Distress; and for Want of Distress, commit the Offender to the Common Gaol, there to remain till he gives Satisfaction.

Persons aggrieved may appeal to the Quarter-Sessions, giving six Days Notice, &c.

### A Commitment of a Journeyman Taylor, refusing to work for the Statute Wages.

**W**Hereas A. B. of, &c. Taylor, hath this Day made Oath before us, J. F. and J. S. Esqrs; two of his Majesty's Justices of Peace for the County of, &c. that L. M. a Journeyman Taylor, hath refused to work with him the said A. B. for the Wages appointed by Statute: These are therefore to command you to apprehend the said L. M. and convey him to the House of Correction, and to deliver him into the Hands of the Keeper thereof. Hereby also requiring you the said Keeper to take the said L. M. into your Custody, and cause him to be kept at hard Labour for the Space of two Months. Given, &c.

### A Warrant against a Taylor for giving greater Wages than the Statute allows.

**W**Hereas Information hath been given on Oath by, &c. to us J. F. and J. S. Esqrs; &c. that A. B. of, &c. Taylor, hath within three Months last past given to L. M. his Journeyman, greater Wages than the Law allows, viz. above 2s. per Day in the Month of June, &c. for the usual Hours of Working: These are therefore to command you to levy on the said A. B. the Sum of 5l. which he hath forfeited by the said Offence, pursuant to the Statute in that Case made; and that you do pay one Moiety thereof to, &c. the Informer, and the other Moiety to the Poor of the Parish of, &c. Given, &c.

## Thames.

Justices of  
Peace Com-  
missioners for  
this A<sup>d</sup>.

**B**Y Stat. 6 & 7. W. 3. c. 16. after the first of May 1695, the Justices of Peace in the Counties of *Wilts, Gloucester, Oxford, Berks and Bucks*, shall be, in their respective Counties, Commissioners for putting that A<sup>d</sup> in Execution.

Any five may  
make Orders,  
&c.

They, or any five of them, shall at their Quarter-Sessions, make Orders for settling reasonable Rates and Prices, to be taken by the Owners of all Barges, Boats or Vessels, and by the Tenants of all Locks, Weirs, Bucks, Winches, Turnpikes, Dams or other Engines, within their respective Counties, upon the River of *Thames and Isis*, and make such other Orders concerning the same, so as to prevent such Abuses as have formerly happened, as to the said Commissioners, or any five of them, shall seem meet.

They shall assess the Rates of Carriage in such Boats, Barges, &c. in their Quarter-Sessions, after *Easter*, yearly, and give publick Notice thereof in Writing to every Mayor or head Officer in every Market-Town. And if any Owner of Boat, Barge, &c. takes above the said Rates for Water-Carriage, or any Person break the said Rules or Orders, he shall for every such Offence forfeit 5*l.* to the Party grieved, with double Costs of Suit; to be recovered in any Court of Record at *Westminster*.

Persons grieved  
may appeal to  
Judges of As-  
sises.

If any Person be aggrieved by any such Rules or Orders, Justices of Assize, upon Complaint made within the Space of one Year, may confirm, vacate or alter the same, as shall be thought convenient.

Such Rules and Orders (except those for Water-Carriage) shall be written in Parchment, and signed by five Commissioners, and so signed shall continue in Force for seven Years, and from thence, till some new Rule or Order be made in the same Case.

Weirs, &c.  
taken to lie in  
that County  
where rated to  
Church and  
Poor.

Weirs, Locks, &c. shall be adjudged and taken to lie in that County, where the same are taxed and rated to the Church and Poor.

Nothing in this A<sup>d</sup> shall extend to give any Jurisdiction to the aforesaid Commissioners, to put this A<sup>d</sup> in Execution between the Village of *Bicester* and the



the City of Oxford, but that such Power shall still remain in the Commissioners appointed by the University and City of Oxford.

Nor shall any thing therein lessen any Power of Jurisdiction of the Mayor and Citizens of London, or any other Person or Persons whatsoever.

The Barge-Master shall be answerable for Damages done by his Barge or Bargemen.

Barge-masters answerable for Damage done by Bargemen.

This Act to continue for nine Years, and from thence to the End of next Session of Parliament.

## Threatning.

If any threaten to hurt another in his Body by beating, wounding, &c. the Party threatened may go before a Justice of Peace, and make Oath thereof, and thereupon may pray Surety of the Peace against the Person so threatning.

In what Cases Surety for the Peace may be prayed.

Like Law is where any threaten to burn a Man's House or Goods.

A Husband may have Surety of the Peace against his Wife, or a Wife against her Husband; so against an Infant, or a Madman, capable of breaking it.

Threatning to imprison one, is no Cause for craving the Peace against him.

C c 2

Tiles

the City of Oxford, but that such Power shall still remain in the Commissioners appointed by the University and City of Oxford.

Not shall any thing therein lessen any Power of Jurisdiction of the Mayor and Citizens of London, or any other Person or Persons.

## Tiles and Bricks.

When Tile Earth is to be stirred and turned.

**B**Y Stat. 17 E. 4. c. 4. Earth for Tiles shall be cast up before the first of *November*, and must be stirred and turned before the first of *February*, and not made into Tile before the first of *March* next following.

Before the said Earth be wrought into Tile, it must be well worked and cleansed from Stones, &c.

The Size of a Plain Tile.

A plain Tile offered to Sale is to be ten Inches and a Half long, and six Inches and a Quarter in Breadth, and three Quarters of an Inch thick.

Of Roof-Tile.

Every Roof-Tile, in Length thirteen Inches, in Thickness three Quarters of an Inch, and of convenient Deepness.

Of Gutter and Corner Tile.

Gutter and Corner Tile must be ten Inches and one half long, and of convenient Thickness, Breadth and Deepness.

If any Person put to Sale any Tiles otherwise made, he forfeits to the Buyer double the Value of the same Tiles, and a Fine to the King.

Offences against the Act to be heard at Quarter-Sessions.

Offences against this Act shall be heard and determined by Justices in Quarter-Sessions, and the Offenders fined not less than after the Rate of 5 s. per Thousand of Plain Tile, 6 s. 8 d. per Hundred for Roof Tile, and 2 s. per Hundred for Corner and Gutter Tiles.

The said Justices have also Authority to appoint Searchers of Tile, who shall diligently execute that Office, on Pain to forfeit to the King for every Default, 10 s. And they shall have of every Tile-maker, for such Search, after the Rate of 1 d. per Thousand for every Thousand of Plain Tile, a Half-penny for every Hundred of Roof-Tile, and one Farthing for every Hundred of Corner or Gutter Tile, and shall make Presentment of all Defaults found at the next Sessions, which shall be as effectual in Law as a Presentment of twelve Men.

None shall put any Tile to Sale before such Search be made, on Pain to forfeit the same; and the said Justices have also Power to hear and determine the Defaults of the said Searchers.

By

By Statute made 12 G. 1. all Earth or Clay for making Bricks for Sale in *England*, shall be dug and turn'd at least once between 1 Nov. and 1 Feb. and no Part of such Clay shall be made into Bricks till after 1 *March* ensuing; and no Bricks shall be made but between 1 *March* and 29 *Sept.* and no *Spanish* after the said 29 *Sept.* shall be mix'd with any Brick, Earth or Clay, nor any Breeze used in burning; and all Bricks shall be burnt either in Kilns, or in distinct Clamps by themselves, i. e. the Place-Bricks in Kilns or Clamps, and the Stock-Bricks by themselves; and all Place-Bricks shall, when burnt, be not less than nine Inches long, two Inches and one Half thick, and four and a Quarter wide; and all Stock-Bricks shall be of the same Lengths and Breadths, and one eighth Part of an Inch thicker; and all Pan-tiles made for Sale shall, when burnt, be not less than thirteen Inches and an Half long, and nine Inches and a Half wide, and Half an Inch thick, on Pain of forfeiting 20 s. for every Thousand of Bricks, and 10 s. for every Thousand of Pan-tiles.

When Brick and Tile Earth is to be dug and turn'd, and Bricks made and burnt.

The Sizes of them.

The Master and Wardens of Tilers and Bricklayers, or any two of them, or any four or more appointed by the Master, &c. may enter upon any Grounds within fifteen Miles of *London*, and search whether the Earth or Clay be good, or the Bricks or Pan-tiles well burnt, and of the Dimensions before prescribed; and if any found otherwise, the Maker shall be fined by the Master, &c. after being summoned at the next Court; and if he shall refuse to pay, it may be recovered by Action of Debt, or be levied by Warrant under the Company's Seal, by the Clerk of the Company, by Distress and Sale.

Master and Wardens may enter and search.

Party grieved may appeal to next Quarter-Sessions of the County, where, &c. who are finally to determine the same, and award Costs to either Party.

Sessions.

The Justices at Quarter-Sessions next after *Epiphany*, shall appoint two Searchers, for one Year on-ly, to inspect the Earth or Clay design'd for Bricks or Pan-tiles, and to enter into any Grounds, &c. except within 15 Miles of *London*, and they are to make their Presentments at *Easter* and *Michaelmas* Sessions, of all Defaults against this Act; and if he refuse to appear, or be convicted at the next ensuing Sessions, then the several Penalties shall be levied on him, and distributed by the Justices, one Moiety to the Persons making such Presentments, the other to the Poor of the Parish.

Justices to appoint Searchers, &c.



## Tiles and Bricks.

The Searchers to be appointed by the Master and Wardens, or by the Justices, shall be paid by the Maker for every Thousand Bricks one Halfpenny, and for every Thousand Pan-tiles 1 d.

The Masters and Wardens of the Society, or any four or more of the Society, so as aforesaid appointed, shall have Power twice in a Year, or oftener, to search the Making all Plain Tiles, Roof or Gutter Tiles, made within London, or fifteen Miles thereof, and shall have the same Fees for Searches as any Person, pursuant to Stat. 17. E. 4. and may summon and fine Offenders, and levy the Fines as the Company may, for bad Bricks; and Justices, as well in London or fifteen Miles thereof, as of every County at their Quarter-Sessions, may enquire, on the Complaint of any Brickmaker or Tiler, of the Defaults and Misdemeanors of the Searchers, and fine 'em not exceeding 10 l. for their Defaults.

All Contracts,  
&c. illegal,  
and forfeit  
20 l. each.

All Contracts between Brickmakers or Tilers, within fifteen Miles of London, for engrossing Bricks or Tiles, or restraining any Person from freely selling, or for fixing any certain Price under which they shall not be sold, are declared illegal; and the Offender, if a Brickmaker or Tiler within fifteen Miles of London, shall forfeit 20 l. and every Clerk, Agent or Servant, 10 l. one Moiety to the Poor of the Parish, &c. and the other to the Person suing for the same within six Months after the Offence.

This Act is a publick Act, and any Person sued for any thing done in Pursuance of it, may plead the general Issue, and give the special Matter in Evidence; and no Person convicted by this Act shall be liable to be prosecuted on Stat. 17 E. 4. or any other-  
wise. Stat. 12 G. 1. c. 11.

The Justices at Quarter Sessions next after the first of January, shall appoint two Searchers, for one Year on point Sessions, to inspect the Bricks or Clay delivered for Building, or for other Uses, and to enter into any Grounds, or to make any other Thing, within fifteen Miles of London, and they are to make their Returnments at Easter and Michaelmas Sessions, of all Defaults against this Act; and if he refuse to appear, or be convicted at the next ensuing Sessions, then the several Penalties shall be levied on him, and distributed by the Justices, one Moiety to the Person making such Returnment, the other to the Poor of the Parish.

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A Deputation for Tile-Searchers.

Essex. ff. **W**E whose Names are hereunto written, his Majesty's Justices of Peace of the said County, do, according to the Form of the Statute in that behalf made in the 17th Year of the Reign of the late King Edward the Fourth, ordain, assign and depute A. B. and C. D. and either of them, during our Wills and Pleasures, to search and examine the digging, casting, turning and ordering of Earth, for all Plain Tile, Roof Tile, Corner Tile and Gutter Tile, to be made in the County aforesaid, and to search and examine all the Tiles aforesaid, that the same be good, and made according to the Statute in that Case made; and generally to do and perform all such other Things, as to the Office of Searchers do, by Virtue of the said Act, appertain; and to receive and have such Fees and Salaries for their and either of their Labour in the Premises, as by the said Act is appointed. Given under our Hands and Seals, &c.

An Order of Sessions for paying the Penalties for making Tiles contrary to the Statute.

Essex. ff. **W**Hereas it has been proved before us by, &c. 17 E. 4. c. 4. that A. B. of, &c. has exposed to Sale two Thousand of Plain Tiles, not being of the Length of ten Inches and one half, &c. as the Law directs, whereby he is liable to a Forfeiture of double the Value, and 5 s. per Thousand for the Offence aforesaid: These are to empower and command you to ask, demand and levy on the said A. B. the Sum of, &c. which he hath forfeited as aforesaid, according to the Direction of the Act of Parliament in that Case made; and for your so doing, this shall be your sufficient Warrant. Given, &c.

C. 4. Tiles.

## Tithes.

**W**hoever is desirous of a more full Information concerning Tithes, may consult the famous Mr. *Selden's* and the learned Dr. *Comber's* Treatises, where that Subject is excellently and learnedly handled. What I shall say on this Head, is only as they are taken Notice of in several Statutes, and, as such, relate to the Office and Duty of a Justice of Peace.

What Tithes are, and how due.

Tithes are, properly speaking, the tenth Part of all annual Profits, whether they be predial, personal or mixt, set apart for the Maintenance of the Clergy, and are generally esteem'd to be due of divine Right: But, whether they are so or no, there was a Canon made at *Mascon* in *France*, so long ago as *Anno* 585, for Payment of Tithes, as founded on the Law of God, and the ancient Custom of the Church.

How differ from Oblation and Mortuaries.

Tithes differ from Oblations, which are voluntary Offerings from the Living; and from Mortuaries, which are only due on the Death of the Party, and are only due by Custom: Whereas Tithes are annually due of Common Right, and are Ecclesiastical Inheritances, collateral to the Estate in the Land, out of which they arise, and are, of their own Nature, due only to spiritual Persons.

Tho' Tithes are due of Common Right, yet are they enjoined by particular Laws, both before and since the Conquest, by which Laws they are to be determined: But, before we treat of them, if we consider the Nature of Payment of Tithes, we may find some general Rules relating to it, but not without some Exceptions.

Rules in Payment of Tithes.  
First Rule.

First Rule, That Tithes are regularly to be paid only of Things which annually increase *simul* and *semel*. But this Rule is to be understood where there is no Custom to the contrary; for in such Case the Custom prevails, and then they are to be paid for Coal, Chalk, Lead, Slate, Stone, Tin, Turf, which do not yearly increase.

As



As for Houses, a customary Duty, or *Modus decimandi*, hath been anciently allowed in lieu of Tithes; but such a Prescription has likewise been denied, because a *Modus* is properly only payable for the Increase of Things.

By the same Rule, the Payment being only *semel in Anno*, then there can be no Tithes due for After-Pasture, where Tithe-Hay hath been paid in the same Year: But Custom likewise prevails in that Case.

**Second Rule.** Things *Fere Natura* are not tithable, because a Man has no Property in them; but Pidgeons, Rabbits, Bees, &c. cannot properly be called *Fere Natura*, because they are in Custody in particular Places. And Tithes are payable for such Things by Custom; and so also for Fish.

But Deer, Hares, Conies, Fish, Partridge, Feasant, &c. and all manner of Game which are wild, are excused from paying Tithes. *Cro. Car. 339.*

Tithes being therefore due by the Laws of the Land, must be recovered by the Help of those Laws, when unjustly withheld: But in many Cases Exemptions are allowed; as,

1. By Appropriations.
2. By Privileges of certain Orders.
3. By Prescription or real Composition.
4. By Unity of Possession.

Cases of Exemption.

1. By Appropriation; which is the Settling particular Churches, with their Tithes, on Ecclesiastical Communities, as Monasteries, Priories, &c. on Condition of finding a Vicar to officiate: These, since the Statutes of Dissolution, are now become Lay-Inheritances. But in such Cases the Impropiator is to find a Vicar to attend the Cure.

First Exemption.

And before the Statutes of 15 R. 2. c. 6. and 4 H. 4. c. 1. The Monks generally sent some one of their Convent, who from Time to Time served the Cure, and the Tithes were taken by the Convent; but by these Statutes he was to be no longer one of the Regular, but one of the Secular Clergy, and not only canonically instituted and inducted, but conveniently endowed; but it was at the Discretion of the Ordinary, or the Appropriation to be void.

And this Power in the Bishops is not taken away by the Statutes of Dissolutions, as appears by some Resolutions in Law: For a Vicar libelled for that the Church

Church was appropriated, and he had not a sufficient Maintenance; and a Prohibition was prayed, but denied, because the Bishop might compel the Improprator to enlarge it. 1 Roll 357.

This Endowment of Vicaridges is usually of small Tithes, yet the Vicar may prescribe for Tithes not mentioned in the Endowment, because the Ordinary hath Power to increase his Allowance.

## 2. Exemption.

2. Exemption by Privileges of certain particular Orders: For though at first most Orders of Monks were exempted from Payment of Tithes, yet in Time this was restrained to three Orders only;

Viz. to { Cisterrians,  
Hospitallers,  
Templers

Dissolved by the Statute of 17 E. 2. and their Possessions given to the Hospitallers.

## How limited.

But these Privileges had certain Limitations.

1. It must relate to Lands in their Possession before the Council of Lateran, 17 Johannis Anno 1215; for if given to them afterwards, such Lands had not this Privilege.

2. Where there was an ancient Composition, Lands were not discharged by this Privilege, but the Composition was still paid, and the Rectors and Vicars who were able, did contest this Matter with the Monks, and prevailed.

These being Privileges united to particular Orders and Convents, when these Convents were dissolved, the Privileges were extinct, unless continued by those Acts which dissolved them.

## Not taken

Care of in

Stat. 27 H. 8.

But this was not done by the Statute of 27 H. 8. by which all the little Monasteries and Priories under 200*l.* per Ann. Value were dissolved; so that this Privilege doth not prevail where the dissolved Monasteries, &c. were under that Value, because there is no Provision in that Act to exempt their Lands from Payment of Tithes.

## But in 31 H. 8.

And therefore Care was taken Four Years afterwards in 31 H. 8. when the great Monasteries were dissolved, that the King should hold their Lands discharged of Tithes, as the Abbots had done before the Dissolution.

3. Exemption, This is by Prescription and ancient Composition. As to Compositions real, the Canonists say *non valet consuetudo ut minus quam decima solvatur*; but they allow it to be good where less is paid for personal Tithes which arise out of the Profits accruing by the Labour and Industry of Men. The Reason of the Difference seems to be that the one is not so visible and notorious as the other.

These Compositions are usually entred in the Bishop's Register, and were at first (as is presumed) made for a valuable Consideration; but since that Time the Price of Things is much advanced; so that now though such Compositions bear no Proportion to the real Value of the Tithes, yet Custom doth prevail; and from hence arises what is called a *Modus decimandi*.

But now since the Statute of 13 *El. c. 10.* a real Composition, though made by the concurrent Consent of Parson, Patron, and Ordinary, shall not bind the Successor; because by that Statute all Grants which are binding, are restrained to One and Twenty Years or Three Lives.

But as to Prescription, it is not allowed in Lay Persons in *non decimando*, because none but Spiritual People are capable of having Tithes.

Though Lay Persons are allowed to prescribe in a *Modo decimandi*, but with some Limitations, *viz.* it must be immemorial and reasonable, that is, there must be some Recompence for the Parson, and it must be something which is certain and durable; for if otherwise, it shews an original Deficiency in the Custom, and therefore it is void.

4. Exemption is Unity of Possession, that is, where Lands formerly tithable were united by Appropriation, or otherwise, to some spiritual Person or Persons; for by this means they were discharged of Tithes; but this holds only so long as they continue so united; so that this is more properly a Suspension than an absolute Discharge.

And in such Unity there must be Equality of Estate, that is, the spiritual Person must have an equal Estate of Inheritance, both in the Land and in the Tithes.

And it ought to have been Time out of Mind.

If it belonged to a Religious House, it ought to be free and discharged of paying Tithes at the Time of the Dissolution, and then in the Possession of the Convent;

3. Exemption. Compositions usually entred in the Bishop's Book.

Prescription in *non decimando* not good.

But good as to a *Modus Decimandi*.

4. Exemption.

Not to extend to Lands in Lease at Dissolution



vent; for if it was let on Lease, and their Farmers paid Tithes to them, such Unity will not serve.

First Statute  
about Tithes  
1 R. 2. c. 14.

The first Statute made concerning Tithes, was in the first Year of Ric. 2. c. 14. which says that Where, in an Action of Goods carried away, the Defendant maketh his Title for Tithes due to his Church; in such Case the Plaintiff's general Averment shall be taken without shewing Specially how the same were his Lay Chattel.

Second Statute  
about Tithes,  
5 H. 4. c. 11.

The next is the 5 H. 4. c. 11. by which the Farmers of Aliens shall pay Tithes to the Parsons and Vicars of the Parishes where the Lands lie; and this notwithstanding, they shall be seized into the King's Hands, or any Prohibition made to the contrary.

Third Statute  
about Tithes,  
27 H. 8. c. 20.

In the 27 H. 8. c. 20. a Statute was made to enforce the Execution of a Sentence of an Ecclesiastical Judge for Tithes, viz. Two Justices of Peace might commit him who refused to obey the Sentence, upon Complaint to them in Writing from such Judge.

Fourth Statute  
about Tithes  
32 H. 8. c. 7.

By a Statute made 32 H. 8. c. 7. all Persons shall duly set forth and pay all Tithes and Offerings, according to the Custom of the Places where they grow due.

And if any Person, after Sentence given by the Ecclesiastical Judge, refuse to pay the Tithes or Sums of Money adjudged, then two Justices of Peace (i. e. *Quo*.) shall upon Certificate thereof from the Judge, commit the Party so refusing to the next Gaol, there to remain until he have found Sureties to be bound by Recognizance (or otherwise before the same Judge) to the King, to perform the said Sentence.

Fifth Statute  
about Tithes  
2 & 3 E. 6. c.  
13.

By a Statute made 2 & 3 E. 6. c. 13. the Statutes of 27 H. 8. c. 20. and 32 H. 8. c. 7. are confirmed, and several other good Clauses for the further enforcing the Paying of Tithes, are added, (*Vide* the Act) among others it is enacted, that Suits for subtracting or withdrawing of Tithes and other Profits Spiritual, shall be prosecuted in the Ecclesiastical Court, before the Ecclesiastical Judge, who hath Power (no Original or Prohibition hanging) to excommunicate the Party disobeying the Sentence. And if he stand Excommunicate Forty Days, to certify the Excommunication (after Publication thereof at the Place or Parish where such Party dwells) into the Chancery, and thereupon to require Process *De Excommunicato capiendo*, to be awarded against the Person so Excommunicate.

Sixth Statute  
about Tithes  
7 & 8 W. 3.

By Statute 7 & 8 W. 3. for Three Years; but by the 10 & 11 W. 3. continued for Seven Years, and per

3 & 4 Ann. made perpetual, there is an easy and expeditious Way for Persons to recover small Tithes, &c. under 40*s.* per Ann. The Person to whom it is due, may in Twenty Days after Demand, and within Two Years after it becomes due, exhibit his Complaint in Writing to two Justices, neither of them Patron of the Church, or interested in the Tithes.

These two Justices may summon the Party by a Writing under their Hands and Seals, to appear before them, &c. and after Appearance, or in Default thereof, (if the Service of the Summons be proved on Oath) they may hear the Complaint by Witnesses upon Oath, and may make a Judgment under their Hands and Seals, by making an Allowance for the Tithes, and give Costs not exceeding 10*s.*

This Judgment must be enrolled by the Complainant at the next Sessions, for which he is to pay 1*s.* to the Clerk of the Peace; and this Enrolment and Satisfaction made shall be conclusive against any other Remedy for the same Tithes.

If the Party neglect or refuse to pay the Money so adjudged, in Ten Days after Notice, the Constable and Headborough may levy it by Warrant of the said Justices, by Distress and Sale of the Goods of the Offender, which must be paid to the Person complaining; and the Officers may retain such Charges for making the Distress, and for retaining it Three Days, (before which Time they must not sell it) as the Justices shall think fit.

The Party grieved may appeal to the next Sessions, whose Judgment shall be final; and they may reverse the Judgment of the two Justices, but if they confirm it, they may give Costs against the Appellant, to be levied by Distress, &c.

If the Defendant removes out of the County, City, &c. after Judgment had, and before the Sum is levied, one of the two Justices who gave the Judgment, may certify it under his Hand and Seal to any Justice of that Place where the Defendant is removed to, which Justice shall cause the Money to be levied by Distress, &c.

It is further enacted, that no such Judgment shall be removed or superseded by *Certiorari*, unless the Title of the Tithes come in Question.

But if the Party, against whom the Complaint is made, insist upon a *Modus*, and deliver the same under his Hand to the Justices, then he giving the Complainant such Security as the Justices shall think fit, to

Seventh Sta-  
tute about  
Tithes 7 & 8  
W.3. c. 34.

pay the Costs and Damages, which upon a Trial at Law, shall be given against him, the Justices shall not proceed, but the Complainant must sue for his Tithes in the Courts above.

By Statute 7 & 8 W. 3. c. 34. for Seven Years, and by 1 Geo. I. c. 7. made perpetual, A Quaker refusing to pay or compound for his Tithes or Church-Rates, &c. may upon Complaint, be summoned before the two next Justices, (other than such Justice who is Patron of the Church, or any wise interested in the Tithes) who may examine upon Oath the Truth of the Complaint, and ascertain what is due to the Person complaining; and if it is under 10*l*. they may by an Order under their Hands and Seals, direct the Payment.

And if such Quaker refuse to pay, &c. one of the said Justices may by Warrant under his Hand and Seal, levy the Money by Distress, &c.

If the Quaker finds himself aggrieved, he may appeal to the next Quarter-Sessions; and in such Case no Warrant for Distress shall be granted till the Appeal is determined.

If the Sessions upon the Appeal continue the Judgment, they may give Costs against the Appellant, to be levied by Distress, &c.

No *Certiorari* to be allowed, unless the Title come in Question.

**A Summons for a Person refusing to pay Tithes, to appear before the Justices and be examined.**

To A. B. of, &c.

**Effex. ff.** **W** Hereas Complaint hath been made unto us J. F. and J. S. Esq; two of his Majesty's Justices of Peace for this County, that you the said A. B. have refused to pay unto R. C. Vicar of the Parish of M. the small Tithes due to him from you, contrary to the Statutes in that Case made: These are therefore to require you to appear before us at the Sign of, &c. on Wednesday the 24th Day of March next, to be examined concerning the Premises. Given under our Hands and Seals, &c.

The



The Order.

To A. B. of the Parish of, &c.

Essex. ff. **W** Hereas Complaint hath been made unto us Two Justices. two of his Majesty's Justices of Peace for this County, that A. B. being a Person commonly called a Quaker, hath refused to pay or compound for his Tithes arising in the Parish of L. in this County, and we having summoned the said A. B. before us, and having duly examined the Truth of the said Complaint upon Oath, do find that there is justly due from the said A. B. to the Vicar of the said Parish, the Sum of Nine Pounds, being the Value of the small Tithes, for Two Years last past. We therefore the Justices aforesaid, being neither of us Patron of the said Parish Church of L. or any ways interested in the said Tithes, do order and appoint the aforesaid A. B. to pay or cause to be paid, unto the said Vicar the aforesaid Sum of, &c. within Ten Days after Notice of this our Order. Given, &c.

The Warrant to distrain in Case there is no Appeal.

To the Constable, &c.

Essex. ff. **W** Hereas A. B. being a Person commonly called a Quaker, hath been summoned to appear before two of his Majesty's Justices of Peace for this County, to be examined for Non-payment of his Tithes: And whereas the said Justices have ordered him to pay unto the Vicar of L. in this County, the Sum of Nine Pounds, within Ten Days after Notice of the said Order: And whereas it appeareth unto me J. S. Esq; one of the said Justices, that the said A. B. had due Notice of the said Order, but doth refuse to pay the said Sum of Nine Pounds: These are therefore to require you forthwith to levy the aforesaid Sum of Nine Pounds, by Distress and Sale of the Goods and Chattels of the said A. B. vndering to him the Overplus, if any shall happen to be: And hereof fail not. Given under my Hand and Seal, &c.

An

An Order for a Complainant to pay Costs  
for making a false Complaint relating to  
Tithes.

7 & 8 W. 3.

Essex. ff. **W** Hereas A. B. of, &c. a Tenant to,  
&c. Rector of, &c. having lately made  
Complaint unto us J. F. and J. S. Esq; two of his Ma-  
jesty's Justices, &c. that C. D. of, &c. with-held and  
detained from the said A. B. the Sum of, &c. due to him  
for Tithes for the Year last past; and the said C. D. ap-  
pearing before us to be examined in the Premises, the said  
A. B. was not able to make good his Complaint against him,  
or to prove that there was any Money due to him from the  
said C. D. for Tithes; whereby it appears that the Complaint  
of the said A. B. was false and vexatious: We do therefore  
hereby award and order that the said A. B. do forthwith pay  
to the said C. D. the Sum of 10s. as Costs for his Trouble  
and Expences in appearing to defend the vexatious Complaint  
aforesaid. Given, &c.

Tobacco.

None must set  
or sow, or  
plant Tobacco.

Justices, &c.  
must destroy it.

Opposers for-  
feit 5l.

**B**Y Statute 12 Car. 2. c. 34. none shall set or im-  
prove Tobacco in England, Wales, Guernsey, Jersey,  
or Town of Berwick or Ireland, on Pain to forfeit it,  
or the Value, or 40s. for every Rod of Ground so  
planted; and so proportionably; one Half to the King,  
the other to the Informer.

Sheriffs, Justices of Peace, Mayors, Bailiffs, Con-  
stables, within Ten Days after Information of Tobac-  
co set or growing, contrary to this Act, shall cause  
it to be destroyed.

They who oppose the Execution of this Act, shall  
forfeit 5l. to be divided as aforesaid. In Case of Non-  
payment of Money to be paid by this Act, a Distress  
shall be taken and sold; and for Want thereof,  
the Party shall be committed two Months.

This Act shall not hinder Planting Tobacco in Phy-  
sick-Gardens of either University, or other private  
Garden

Garden for Physick or Chirurgery, so as the same exceed not one Half Pole in each Garden. Confirmed by 13 Car. 2. c. 14.

By Stat. 15 Car. 2. c. 7. they that set, plant, or sow Tobacco in *England, Wales, Guernsey, Jersey, or Town of Berwick*, shall, besides the Penalty of 12 Car. 2. c. 34. forfeit 10*l.* for every Rod of Ground so planted, and so proportionably; one Third Part to the King, another to the Poor of the Parish, the other Third to the Informer.

By Statute 15 Car. 2. c. 7. forfeits 10*l.* for every Rod, &c.

Persons resisting the Execution of the Act of 12 Car. 2. c. 34. shall, besides the Penalty therein mentioned, be committed to Gaol till they enter into Recognizances with Sureties of 10*l.* Penalty not to do the like again.

Persons opposing may be committed.

The like Proviso for Physick-Gardens and Gardens of Chirurgery, as in 12 Car. 2. c. 34.

In the 22 & 23 Car. 2. another Act was made against the increasing Tobacco in *England*, which was to continue for Nine Years, and to the End of the then next Session of Parliament:

By 1 Jac. 2. c. 17. continued for Seven Years, and from thence to the End of the then next Session of Parliament: By Stat. 4 & 5 W. & M. continued for Seven Years, and to the End of the then next Session: Continued by 3 & 4 W. & M. for Seven Years, and from thence to the End of the then next Session of Parliament.

The Act of 22 & 23 Car. 2. c. 26. entitled, An Act to prevent the Planting of Tobacco in *England*, &c. shall have Continuance for such Time as the Act of Tonnage and Poundage, made 12 Car. 2. is continued by Stat. 5 Geo. 1. c. 11.

By Stat. 1 Geo. 1. c. 46. Person cutting or procuring to be cut, Walnut-Tree Leaves, Hop-Leaves, Sycamore-Leaves, or any other Leaves, Herbs, &c. or colouring them, to make them resemble Tobacco, or selling the same mixed or unmixed with Tobacco, shall forfeit 5*s.* for every Pound, and so in Proportion: One Moiety to the Crown, (which is to be at the Charge of the Prosecution) the other Moiety to the Prosecutor; to be recovered with full Costs in any Court of Record at *Westminster*. The like Penalty is inflicted for exporting such Leaves, and the same, and the Materials or Engins for cutting, colouring, &c. are forfeited, and may be seized by Officers of the Customs, &c.

Cutting leaves like Tobacco, forfeits 5*s.* per Pound, &c.



How Houses  
must be search-  
ed, and Seizure  
made.

No House, &c. shall be opened to search for Leaves, &c. and Tools, but at reasonable Hours, and not without a Special Warrant from two Justices where the Search is made; and that the Leaves, &c. which shall be found within the Limits of any Port, or within six Miles thereof, shall be brought to the next Custom-House; and if seized at a greater Distance, shall be secured by the Order of two Justices, at the King's Charge, till the Cause of Seizure be determined at the next, or at the farthest the second Quarter-Sessions after the Seizure; and after such Determination, the same shall be burnt or destroyed by an Order of Sessions, at the King's Charge.

Servants, &c.  
may be com-  
mitted.

Servants and Labourers employed in cutting, colouring, &c. any Leaves, &c. to resemble Tobacco, or in making such Mixture as aforesaid, or knowingly selling the same, and being convicted thereof by the Oath of one Witness before two Justices, shall be committed to Gaol or House of Correction, there to be kept to hard Labour for any Time not exceeding six Months, without Bail.

Persons sued  
may plead ge-  
neral Issue.

Persons sued for doing any Thing in Execution of this Act, may plead the general Issue, and may give the Act and Special Matter in Evidence; and if he recover, shall have treble Costs.

Colouring  
Snuff forfeits  
3 s. per Pound.

Mixing or colouring Snuff with Tobacco-Dust, Oker, Umber, &c. or knowingly selling or exposing to Sale such mixed or coloured Snuff, forfeits 3 s. for every Pound of Snuff, and all the Snuff. One Moiety to the Crown, the other to the Informer, or to him who shall seize or sue for the same in a Court of Record. Stat. 1 Geo. 1. c. 46. Exporting Tobacco-pipe Clay, incurs a Forfeiture of Three Shillings a Pound, to be divided between the King and the Prosecutor, by Stat. 13 & 14 Car. 2. c. 18.

A War.

# A Warrant to commit a Servant or Labourer for cutting Leaves to resemble Tobacco.

To the Constable of, &c. and to the Keeper of the Common Gaol at, &c.

Middl. ff. **W** Hereas A. B. of, &c. hath on the Day of the Date hereof, been duly convicted before us J. F. and J. S. Esqs; two of his Majesty's Justices of Peace for the said County, by the Oath of L. M. of, &c. that he, the said A. B. was on the first Day of June last; employed as a Servant in \*cutting Walnut-Tree Leaves, in Imitation of the usual Sizes which Tobacco has been cut to, contrary to the Law in that Case made and provided. We do therefore require you or one of you forthwith to convey the said A. B. to the Common Gaol at L. in the County aforesaid, and to deliver him to the Keeper thereof: And we do hereby command the said Keeper to receive the said A. B. into his Custody, and to keep him in the said Gaol to hard Labour for Three Months, without Bail; and for your so doing this shall be your Warrant, &c.

Geo. 1. c. 46. Two Justices. One Witness.

\*Or cutting any Leaves, or colouring them; or mixing them with Tobacco, or knowingly selling the same, or as the Case is.

## Toll.

**T**OLL is usually taken either in Fairs or Markets, or at Mills.

As to Markets, the Owner thereof, if he hath the Toll, should have a Brass Measure chained in the Market-Place, or he forfeits 3*l.* per Stat. 22 Car. 2. c. 8.

Toll of Market seems to be taxable towards Relief of the Poor. *M. 27. Car. 2. Vid. Dalt. 148.*

As for Horses sold in Markets, if the Toll-Taker does not know the Seller, he must bring a Voucher who does know him; and if such Voucher asserts a Falsity to the Toll-Taker, he forfeits 5*l.* 3*l.* *Eliz. c. 12.*

If a Thief sells a stolen Horse by a false Name, and is so entered into the Toll-Book, such misnaming maketh the Sale void. *Ibid.*

Toll-Gatherer for Horses taking above a Penny for one Contract, or not entering the Parties Names, and

Did 2

Owner of Marker must keep a Brass Measure, &c.

How Horses sold must be tolled.

that in the same Place only where the Fair or Market is, and between Ten of the Clock in the Morning and Sun-Setting, loofeth Ten Shillings. 2 & 3 P. & M. c. 4.

If the Toll-Taker refuse to give the Buyer a true Note of the Entry, paying 2d. he forfeits 5l. per Stat. 31 El. c. 12.

As to Millers, if they take Toll by heaped Measure, they are to be grievously fined. 31 E. 1.

What Toll  
Millers must  
take.

And by 51 H. 3. c. 3. if they take more than the 14th Part of the Hard Corn, or by a Toll-dish, which does not agree with the King's Measure, or otherwise than by Strike, they shall be grievously amerced.

And they shall have no more than three Wine Pints of a Bushel of Hard Corn, and one such Pint of a Bulhel of Malt, if brought to the Mill.

## Trade.

**T**R A D E is necessary and beneficial to this Island, and therefore to restrain it, is against Law, which abhors Idleness, but encourageth Industry, agreeable to the Christian Law; he that will not labour shall not eat; and on the contrary, in all Christian Countries, it seems reasonable that all who are willing to labour should earn their Bread.

Bond not to  
use a Trade is  
void.

Hence is it that a Bond conditioned not to use a Trade is void, though not to use it in such a particular Place is good, the Restraint not being Absolute and General. 11 Co. 86.

By Stat. 5 El. c. 4. none shall exercise or use a Trade to which he has not been Apprentice Seven Years.

None must set  
up a Trade  
unless Appren-  
tice Seven  
Years.

And Debt may be brought upon this Statute in the Courts at Westminster; but an Indictment upon it for using a Trade, not having been Apprentice to it Seven Years, may be tried at the Quarter-Sessions.

This Act was designed for the Improvement of Trade and Manufactures; but some great Men, and in Particular Judge *Twysslen* was of Opinion, that this Statute ought not to extend to Traders in Country Villages, but only to such as used Trades in Market-Towns and Corporations, without having served their Apprenticeships to those Trades.



It is certain at Common Law, before the Making of this Statute, every Body might use what Trade they pleased, though they had not been Apprentices to it; and if he did it unskillfully, the Parry damnified might have an Action on the Case, which together with the Loss of his Trade, which must follow where Skill is wanting, was thought a sufficient Punishment; and therefore this Statute has not been always favoured or extended beyond its due Bounds.

One never being an Apprentice, may use any Trade privately in his own House, so it be not for Gain. 11 Co. 94. 8 Co. 129. 130. And so still in One's own House.

And he may hire a Servant skilful in his Trade, but not an Apprentice. 8 Co. 129. And hire Servants, but not take Apprentices.

So Trades not requiring Skill, as a Pippingmonger, are not within the Statute.

It was the Opinion of my Lord Coke, that an Upholster is not a Trade within the Statute; but the later Opinions are otherwise. 1 Roll. Rep. 1. 2 Bull. 186. 187. Sid. 361. 1 Lev. 243. What Trades are within the Statute.

Information against the Defendant for Exercising the Trade of a Dyer, not having served Seven Years. It appeared at the Trial that the Defendant was a Felt-Maker and dyed Hats, which being Part of his Trade, he was acquitted.

Indictment against the Defendant for using the Trade of a Barber, and against another for using the Trade of a Salesman, not having served Seven Years. Adjudged that both those Trades are within the Statute, and this was upon a Demurrer to the Indictment.

Indictment against the Defendant for exercising the Trade of a Merchant-Taylor, is not within the Statute, because not used here before that Statute was made; for which Reason it was quashed. What not.

A Brewer is a Trade within the Statute, so adjudged Brewer within upon a Writ of Error. 2 Cro. 178. 8 Rep. 129. 1 Sand. 311. Sid. 311. Sid. 427. S. C. the Statute.

## An Indictment for using a Trade not having been Apprentice to it.

Essex. s. **J** W. B., et. quod A. B. nuper de L. in Com' pzed' Beoman 20 die Martii Anno Regni, et. e continue postea usq; diem captionis huius inquisitionis scilicet vicesimum diem Augusti Anno Regni, et. quarto supradicto (eristen' p spatium triu' mensium integrozum) apud L. pzed' in Com' pzed' illicite p suero suo proprio usus fuit exercuit & occupabit artem mysterium sibe manual' occupation' pistoris (Anglice a Baker) eristen' arte mysterio sibe manual' occupatione infra hoc Regnu' Angl' duodecimo die Ianuar' Anno Regni Domine Elizabethæ nup Regine Angl', et. quinto ultat' & approbat' ubi rebera idem A. B. eodem duodecimo die Ianuar' Anno Regni dicte D'ne Elizabethæ nuper Regine Angl', et. quinto supradicto non usus fuit aut exercuit legitime pzed' artem mysterium sibe manual' occupation' pistoris pzed' nec aliquam aliam artem mysterium sibe manual' occupation' nec unquam postea educatus fuit in pzed' arte mysterio sibe manual' occupation' pistoris pzed' p spatium septem annozu' tanquam Apprentic' (Anglice an Apprentice) contra formam Statut' in huiusmodi casu edit' & probis' nec non contra pacem dicti D'ni Regis nunc cozon' & dignitat' quas, et.

**Crant.**

# Transportation. Vide Corn, and Dear-Stealing, and Felony.

CORN may be transported when it is at the Pri- The Prices  
ces following, or under, if not prohibited by when Corn  
Proclamation. may be trans-  
ported.

|                       |                              | l. | s. | d. |          |
|-----------------------|------------------------------|----|----|----|----------|
| Wheat per<br>Quarter. | Per 1 Fac. 1. c. 25. 21 Fac. | }  |    |    | or 12 00 |
|                       | 1. c. 28.                    |    | 01 | 06 |          |
|                       | Per 3 Car. 1. c. 4           |    | 01 | 12 |          |
|                       | Per 12 Car. 2. c. 4.         |    | 00 | 02 |          |
|                       | Per 15 Car. 2. c. 7.         |    | 02 | 08 | 00       |

But by 22 Car. 2. any Person, Native or Foreign-  
er, may transport any Sort of Corn or Grain, altho'  
the same exceed the Prices mentioned in 15 Car. 2.  
cap. 7.

By Stat. 1 W. & M. c. 12. Wheat may be transport-  
ed, if it exceed not per Quarter — 02 08 00

|                        |                              |   |    |    |    |          |
|------------------------|------------------------------|---|----|----|----|----------|
| Barley per<br>Quarter. | Per 1 Fac. 1. c. 25. 21 Fac. | } |    |    |    |          |
|                        | 1. c. 28.                    |   | 00 | 15 | 00 | 00 16 00 |
|                        | Per 3 Car. 1. c. 4.          |   | 00 | 16 | 00 |          |
|                        | Per 12 Car. 2. c. 4.         |   | 01 | 00 | 00 |          |
| Beans per<br>Quarter.  | Per 15 Car. 2. c. 7.         | } | 01 | 08 | 00 |          |
|                        | Per 3 Car. 1. c. 4.          |   | 00 | 16 | 00 |          |
|                        | Per 12 Car. 2. c. 4.         |   | 01 | 04 | 00 |          |
|                        | Per 15 Car. 2. c. 7.         |   | 01 | 12 | 00 |          |
| Malt per<br>Quarter.   | Per 1 W. & M. c. 12.         |   | 01 | 04 | 00 |          |
| Oats per<br>Quarter.   | Per 12 Car. 2. c. 4.         | } | 00 | 16 | 00 |          |
|                        | Per 15 Car. 2. c. 7.         |   | 00 | 13 | 04 |          |
| Pease per<br>Quarter.  | Per 1 Fac. 1. c. 25.         | } | 00 | 15 | 00 |          |
|                        | Per 21 Fac. 1. c. 28.        |   | 00 | 16 | 00 |          |
|                        | Per 3 Car. 1. c. 4.          |   | 00 | 16 | 00 |          |
|                        | Per 12 Car. 2. c. 4.         |   | 01 | 04 | 00 |          |
| Rye per<br>Quarter.    | Per 15 Car. 2. c. 7.         | } | 01 | 12 | 00 |          |
|                        | Per 1 Fac. 1. c. 25.         |   | 00 | 15 | 00 |          |
|                        | Per 21 Fac. 1. c. 28.        |   | 01 | 00 | 00 |          |
|                        | Per 3 Car. 1. c. 4.          |   | 01 | 00 | 00 |          |
|                        | Per 12 Car. 2. c. 4.         |   | 01 | 04 | 00 |          |
|                        | Per 15 Car. 2. c. 7.         |   | 01 | 12 | 00 |          |
|                        | Per 1 W. & M. c. 12.         |   | 01 | 12 | 00 |          |

D d 4

And



# Transportation.

But it must be  
in English  
Ships.

And a Certi-  
ficate must be  
brought under  
the Merchant's  
Hand,

and prov'd  
upon Oath.

Merchant must  
give a Bond of  
200 l.

The Bounty-  
Money to be  
paid to the Ex-  
porter, on a  
Certificate of  
the Corn's  
being landed.

And allowed in  
the Collector's  
Accounts.

How Persons  
above 15 Years  
old may trans-  
port them-  
selves.

And by the Stat. 1 W. & M. c. 12. it is enacted,  
that Corn to be transported must be shipped in English  
Vessels, the Master and two Thirds of his Seamen be-  
ing the King's Subjects.

A Certificate under the Merchant's Hand must be  
brought to the Collector of the Customs, &c. in any  
Port, both of the Quantity and Quality of the Corn  
shipped.

This Certificate must be proved before the Col-  
lector, &c. upon Oath, which he is empowered to ad-  
minister.

The Merchant, or other Person, must give Bond in  
the Sum of 200 l. for every Tun of Corn shipped, and  
so proportionably: The Condition thereof must be,  
that it shall be exported beyond Sea, (Dangers of the  
Sea excepted) and not reloaded in England.

And then the Merchant shall receive of the Col-  
lector, upon Demand, viz.

For every Quarter of Barley or Malt, 2 s. 6 d.

For every Quarter of Rye, 3 s. 6 d.

For every Quarter of Wheat 5 s.

And the chief Magistrate of the Place beyond the  
Seas where the Corn was landed, certifying it under  
the Common Seal, or two English Merchants there,  
under their Hands and Seals; and this Certificate be-  
ing brought to the Person who took the Bond, he  
shall forthwith deliver it to be cancelled, without  
any Fee.

And this Money paid by the Collector shall be ac-  
cepted in his Accounts as so much paid to the King.

By Stat. 11 W. 3. c. 1. this Bounty-Money allowed  
upon the Exportation of Corn by the Act of 1 W. &  
M. c. 12. is taken away after the 29th of February 1699,  
till the 29th of September 1700.

By Stat. 4 G. 1. c. 11. any Person of the Age of 15  
Years, and under 21 Years old, willing to be trans-  
ported; and to enter into any Service in the King's  
Plantations in America; any Person may contract with  
him for such Service, not exceeding eight Years, so as  
such Person so binding himself come before two Ju-  
stices of Peace where the Contract was made, and ac-  
knowledge his Consent, and sign the Contract in their  
Presence, and with their Approbation; which said  
Contract, and their Approbation thereof, must be  
certified by them at the next General Sessions, to  
be registered by the Clerk of the Peace, without Fee.

By

By Stat. 6 Geo. 1. c. 23. Rescuing Felons or Offenders ordered for Transportation, and the Person aiding or assisting them in making their Escapes, is guilty of Felony, without Benefit of Clergy.

A Felon ordered for Transportation, who shall be afterwards at large within the Kingdom of Great Britain, without some lawful Cause, before the Expiration of the Term for which such Felon was ordered to be transported, being lawfully convicted, is guilty of Felony without Benefit of Clergy, and may be tried either in the County where apprehended, or from whence ordered for Transportation.

And a Certificate of the Clerk of the Peace, containing the Effect and Tenor of the Indictment and Conviction of such Felon, produced in Court, is a sufficient Proof.

The Lord Mayor of London, or one Justice of Peace of the City of London, and in all other Places two Justices, may allow of Contracts by Persons above 15 and under 21 Years of Age, with Merchants or others, for serving in the Plantations not exceeding eight Years. Contracts to be certified to the next Quarter-Sessions, and there registred, without Fee, by the Clerk of the Peace.

The Court, before whom Felons are convicted, may nominate and appoint, if they think fit, two or more Justices to contract for the Performance of the Transportation of such Felons to any of the Colonies and Plantations in America, and to order such sufficient Security as directed by 4 G. 1. c. 11. and also to cause such Felons to be delivered by the Gaolers to the Persons contracting for them. Stat. 6 G. 1. c. 23.

The Contracts and Security to be certified by the Justices to the next Quarter-Sessions held for the County, &c. to be filed and kept amongst the Records of such Courts; and the Quarter-Sessions are to order the Treasurer of the County, &c. for which the Court was held that ordered such Felons to be transported, to pay all such Charges and Expences to such Person or Persons as shall be employed for the Purposes aforesaid. *Ibid.*

All Securities for Transportation of Felons to be by Bond, in the Name of the Clerk of the Peace of the County, &c. which said Clerks of the Peace, and their Successors, shall prosecute such Bonds in their own Names, (to which Purposes they are a Body corporate) and to be paid such Costs, Charges and Expences, as the Quarter-Sessions shall direct,

## Transportation. Travelling, &c.

direct, out of the Publick Stock, by the Treasurer of the County, &c. *Ibid.*

The Persons contracting, and to whom such Felons are delivered in order to be transported, or the Persons directed by the Justices, may carry and secure them in and thro' any County of *Great Britain*; and any Person or Persons rescuing them, or any of them, or aiding or assisting in their Escape, shall suffer Death, as in Felony, without Benefit of Clergy.

Clerk of Assize or Clerk of the Peace his Certificate is Proof on an Indictment for returning from Transportation.

The Clerk of the Assize, and the Clerk of the Peace, where such Orders for Transportation shall be made, and their Successors, shall, at the Request of the Prosecutor, or any other on the King's Behalf, certify a short Transcript, containing the Effect of every Indictment, Conviction, &c. and of the Order and Contract for Transportation, to the Court where such Offender shall be indicted, for which 2 s. 6 d. and no more, shall be paid; which Certificate shall be a sufficient Proof that the Person hath been convicted and ordered to be transported. *Ibid.*

## Travelling beyond Sea.

Officers suffering Women or Children to go beyond Sea, forfeit their Places, &c.

**O**FFICERS of Ports, or Owners of Vessels, suffering Women or Children, under Twenty-one Years of Age, to go, or carry them beyond Sea, without Licence of the King, or 6 of the Privy Council, under their Hands, forfeit their Office and all their Goods, and the Master of the Vessel forfeits his Vessel and all his Goods, and must be imprison'd for twelve Months, by Stat. 3 *Ja.* 1. c. 4, & c. 5.

Subject going to serve a foreign Prince, if he does not take the Oath, is a Felon.

Any Subject going beyond Sea to serve any foreign Prince, if he does not take the Oath of Allegiance before the Controller and Customer of the Port, or his or their Deputy, is a Felon: And he before whom the Oath is taken must register it, and certify it into the Exchequer once every Year, or forfeits 5 l. for every Oath not certified.

Any Gentleman, or of an higher Degree, or Captain, or other Officer in the Army, before his going beyond Sea to serve any foreign Prince or State, must be bound by the Controller or the Customer of the Port, with



with two Sureties, (allow'd by the Officer) to the King, in Twenty Pounds, with Condition not to be reconciled to the Pope, nor to practise any thing against the King, but to reveal what he shall know against him. The Controller, or the Customer of the Port, must register the said Bond, and certify it into the Exchequer once every Year, or forfeit 5 l. for every Default. *Ibid.*

Children not being Soldiers, Mariners, Merchants, Apprentices, or Factors, going beyond Sea without such Licence as aforesaid, shall take no Benefit by Descent or otherwise, until they being 18 Years old, shall take the Oath of Allegiance before one Justice of the County where the Parents dwell or dwelt: And in the mean Time the next of Kin, being no Recusant, shall enjoy it till he conforms to take the Oath of Allegiance, and to receive the Sacrament, and then to account to him for the Mesne Profits, and in reasonable Time to pay the same. *Children going beyond Sea take no Benefit by Descent.*

They who send Children beyond Sea, forfeit 100 l. They who send for so doing; one third Part to the King, another to Children be- him who sues, and another to the Poor. *3 Jac. 1. c. 5. yond Sea, forfeit 100 l.*

## **Crabellers.**

**I**F an Inn-Keeper or Alehouse-Keeper refuse to lodge a Traveller, or to let him have Victuals or Drink for ready Money tendred, he may be indicted, fined and imprisoned, or the Party grieved may have his Action, *Dalt. 30. Br. Action sur le Case 76.* *If Inn-Keeper, &c. refuse to lodge a Traveller, he may be indicted and fined.*

## **Crabberse.**

## Traverse.

The Meaning  
of the Word.

Where, notwithstanding  
Traverse, Justice must  
make Restitution.

Where Traverse  
lies, where not.

**T**raverse, from the *French* Word *Traverser*, to run cross, to deny or contradict, is the Denying the chief Matter or Point in the Indictment.

Notwithstanding Offer of Traverse, upon Enquiry of Force, the Justice of Peace must make the Restitution by the Statute of 8 H. 6. or else deliver or certify the Presentment in the King's Bench. *Lamb.* 138.

Traverse lies not to a Record of two Justices, of forcible Entry in their View, because they are Judges in that Case. 8 Co. 121.

Traverse lieth where one Justice of Peace alone will take upon him to record a Riot that he sees, and the Party shall not be concluded thereby. *Lamb.* 182.

That Court that may award Process *ad respondendum* upon an Indictment, may take a Traverse of it; and where Process *ad respondendum* goeth out upon an Indictment that is traversable, the Party may offer and have his Traverse. *Lamb.* 342, 343.

In Case of forcible Entry, the Justice may make Restitution, notwithstanding any Offer of Traverse; yet, in this Case, the safest Way is to send the Indictment into the King's Bench, or accept of the Traverse: For the Tender of a Traverse (to an Indictment of a forcible Entry) upon the Statute of 8 H. 6. is no Superledeas, but in Discretion; so as the Justice of Peace or Court may grant or stay the Restitution at their Discretion, according as the Truth of the Right or Title shall appear to them; and so is the Use of the King's Bench. Or else the Justices of Peace, before whom the Indictment was found, may, after Traverse tendered, certify or deliver the Indictment into the King's Bench, and so refer the further Proceeding thereon to the Justices of that Court.

When the Justices ought to allow a Traverse.

After Process is awarded against the Party, he may come in and submit to pay his Fine; or else he may offer his Traverse to the Indictment, and the Justices ought to allow his Traverse; the formal Words whereof are in *Latin*, *Absque hoc*, &c.

But

But altho' the Justices of Peace have Power in divers Cases, as aforesaid, (out of their General Sessions) to take Indictments to award Process, &c. and the Offenders also have Liberty to come in and offer their Traverse, which the Justices are to allow of, and to receive: Yet it is made a *Quære* by some, Whether the Justices (out of their General Sessions) may try such Traverse tendred to them, (except in Cases of Riots and forcible Entries); without which Trial, all the rest may seem idle: Or, upon the Traverse tendred, they should not certify or send the Inquisition of the Indictment, so found before them, into the King's Bench, or unto their Quarter or General Sessions of the Peace, there to be tried and determined. However, it is safest in all Cases (after such Traverse tendred) to certify or deliver such Inquisition or Indictment into the King's Bench, or to their next Quarter-Sessions, and so to refer the Trial of the Traverse, and farther Proceedings therein, to them.

If one Justice of Peace alone will take upon him to record a Riot, the Party shall not be concluded thereby, for he may traverse it. *Fitz. Tit. Justice del P. 9. Lamb. 185.*

After Traverse, 'tis safest for Justices to send the Indictment, &c. to K. B. or Quarter-Sessions.

## Treason.

**T**Reason (from the French Word *Trahir*) in general, is divided into High Treason and Petty Treason, of each of which I shall speak in their Order: And, first, of High Treason, (in Latin *Crimen lese Majestatis*, in French *Crime de lese Majeste*;) which is the highest and most grievous Offence a Subject can commit against his Prince, and consequently the most severely punished, and seems levelled at the Destruction of the King, or of his Authority, or of the publick Peace and Safety of the Kingdom, and therefore an Offence at Common Law before the Statute *de Proditionibus* of 25 E. 3. c. 2. which was but declarative of the Common Law, and was rather restrictive than augmentative; for before that Statute it lay in the Power of the Judges



to determine what Crimes were Treason, and what not, which being found very uncertain, and in some Cases dangerous, that Statute was made, which continues the general Standard to this Day; for tho' more Treasons were created by several subsequent Laws, as appears by the Statutes 22 R. 2. 2 H. 5. 6. 3 H. 5. 6. 8 H. 6. 4 H. 7. 18. 22 H. 8. 9. 26 H. 8. 13. 27 H. 8. 2. 28 H. 8. 10. & 18. 31 H. 8. 8. 32 H. 8. 25. 33 H. 8. 21. 35 H. 8. 1. and 1 E. 6. 12. yet they were all repealed, and the old Statute of 25 E. 3. c. 2. reinforced by Statute 1 M. c. 1. so that now there are no Treasons but those specified in Stat. 25 E. 3. c. 2. and those which have been created by Acts of Parliament since 1 M. and which may be ranged under these six Heads or Species.

The Six Species of Treason are these:

1. Death.
  - 1. By compassing or imagining the Death of the King, Queen, or Prince, and declaring the same by some Overt Act.
  - 2. By killing the Chancellor, Treasurer, Justices of either Bench or of Assize, Oyer and Terminer, in their Administration of Justice.
2. Violation.
  - To violate or carnally know the Queen, the King's Eldest Daughter unmarried, or the Prince of Wales's Wife.
3. ——— Levying War.
4. ——— Adhering to the King's Enemies.
5. ——— Counterfeiting the Great Seal, the Privy Seal, or the King's Coin.
6. ——— Bringing counterfeit Money into England like the King's Coin.

1. By compassing or imagining the Death of the King. 13 H. 8. 12. Dyer 128. 7 Rep. 10.

1. By compassing or imagining the Death of the King.

Any Overt or open Act, manifesting a settled Design of levying War, or of deposing or imprisoning the King, is a sufficient Declaration of Compassing or Imagining the King's Death, &c. as providing Arms to effect it, sending Letters to incite wicked Persons to attempt it; writing to foreign Princes or States to invade this Kingdom; assembling People to get the King in their Custody. These and such like are Overt Acts

Acts, sufficient to make one Guilty of High Treason within this Branch of the Statute, especially if there is any other concurrent or collateral Proof, signifying to what End and Purpose such Acts were done.

It has been formerly held that bare Words themselves might be laid as an Overt-Act of Treason, as in *Cro. Car.* 332. *Crobagan's Case*, *Keiling* 13. But my Lord *Coke* in his Pleas of the Crown, *Fol.* 14. is of another Opinion; and so the Law seems to be at this Day.

*Charnock* was indicted for High Treason; and at his Trial the Question was, Whether Words could be an Overt-Act of Compassing the Death of the King? Adjudged that loose Words, without any Relation to the Act it self, could not; but Words of Persuasion to kill him, are Overt-Acts of Compassing his Death; and so is consulting how and in what Manner to kill him. It is the bare Imagination which makes the Treason; and any external Act, which may be a Manifestation of such Imagination, is an Overt-Act.

By Stat. 13 *Car.* 2. c. 2. if any, during that King's Life, should intend Death or Destruction, or any bodily Harm, tending to Death or Destruction, Maim or Wounding or Restraint of the King's Person, or to depose him from the Style or Honour of the Imperial Crown of any of his Dominions, or to levy War against him, or to move any Strangers to invade any of his Dominions; and any such Intentions declared by printing, writing, preaching, or advised speaking, such Persons being convicted on the Oaths of two Witnesses, upon Trial, or otherwise attainted by Law, should be adjudged Traitors.

And one *Staly* was tried upon that Act, and convicted and executed; but this Statute expired at the Death of that King.

Though now it is agreed that Words set down in writing, may be an Overt-Act to prove the compassing the King's Death.

And this was the Case of *Williams*, who wrote a Book called, *Speculum Regale*, wherein he foretold the King's Death. 2 *Roll.* 88. *Co.* 3. *Inst.* 6.

So is the Printing any Treasonable Position, as in *Twyne's Case*; or to say, the King being excommunicated by the Pope, may be deposed and killed. *Owen's Case* 13 *Jac.* 1.

So is the Gathering Men together to compel the King to comply with their Demands, or to remove evil Councillors, or to conspire with a foreign Prince

Consulting to  
kill the King,  
an Overt-Act  
of Treason.

Treasonable  
Words set  
down in Wri-  
ting, an Overt-  
Act.

*William's Case.*

So is the ga-  
thering Men  
together to  
force the King  
to their De-  
mands. Lord  
*Cobham's*  
*Case.*

or State to invade the Kingdom. Lord Cobham's Case, *Kelynge* 21.

But a Man *Non compos mentis*, cannot be Guilty within this Branch, &c. because he has not the Use of his Reason; but he may be Guilty by attempting any Violence upon the Person of the King, &c.

And because a Civil War and the Destruction of the People, are the natural Consequences hereof, therefore this was Treason at Common Law.

Some Overt-Act must be alledged and proved in every Indictment, &c.

What King is meant, &c.

A King before his Coronation; A King *de facto*, is a King within this Act; but the Husband of the Queen Regent, or the Right Heir to the Crown, not in Possession, is not so.

The Imagination is the Treason.

To intend to deprive, depose, or disinherir, arrest, or imprison the King, is High Treason; for the bare Imagination is the Treason, though it ought to appear by some open Act; for a Crown can scarce be taken off a King's Head, without the Loss of his Life as well as his Crown: And there is generally, but a short Space of Time between a King's Imprisonment and his Grave.

What Queen.

A Queen must be absolutely so, and not a Queen Dowager.

What the Prince.

The Second Son after the Death of the Eldest, the Eldest Son of the Queen Regnant; but the Collateral Heir apparent, is not within this Statute.

2. By violating the Queen.

This doth not extend to a Dowager: If the Queen consents it is Treason in her; but there must be some open Act to manifest it, which must appear by plain, and not conjectural Proof; and the Offender must likewise be attainted in his Life-time; for if he die before Conviction, he cannot be attainted but by Act of Parliament.

This Offence was Treason, likewise before this Statute, because it utterly destroyed the Certainty of the King's Issue, and by Consequence raised Contention about the Succession; and therefore *Britton*, Fol. 47. and *Stanford* Fol. 1. b. say, that it was Treason then for any Man to deflower any other of the King's Daughters.

3. By levying War.

2dly. By levying War. To levy War against the King, &c. is High Treason; and Detaining or Holding a Castle or fortified Place against the King, is to levy War against the King.

Conspiracy or Compassing to levy War, is no Overt-Act, &c. unless a War is actually levied. This appears



pears by Statute 14 *Ed. c. 1.* which made such Conspiracy Treason during the Life of that Queen; but if a War is actually levied, then the Conspirators are all Traitors, though not actually in Arms.

And yet the Meeting and Consulting to levy War, though no War is actually levied, will be a sufficient Overt-Act to prove the Compassing and Imagining the Death of the King.

It is true my Lord *Coke* in his Pleas of the Crown, *Fol. 14.* is of a contrary Opinion, but that Opinion has been denied to be Law.

And if a Meeting and Consulting to levy War, tho' no War is afterwards levied, shall be a sufficient Overt-Act to prove the Compassing the King's Death; *a fortiori* it is so where War is actually levied. *K. Henry 20.*

Raising Forces for any publick End or Purpose, without the King's Authority is Treason; as was the Case of *Cotton* and other *London* Apprentices, who assembled to pull down Bawdy-Houses. They chose Captains among themselves, and marched in a war-like Manner; they wounded the Constables and opposed the Guards. All which was found specially at the *Old-Baily*; and upon mature Consideration of the Fact, it was held to be Treason, and some of them were executed for it. *2 Sid. 388.*

So in *Oxfordshire*, several conspired to pull down Enclosures, and to go to the Lord *Norris's* House for Armour, Horses, &c. and from thence to *London*, and to join with more; this was held Treason. *2 And. 67.*

Two or more conspired to levy War, and one of them afterwards actually raised Forces. This was held Treason in all, by the Opinion of all the Judges in *Sir Nicholas Throgmorton's* Case, who conspired with *Sir Thomas Wyatt.*

Some *London* Apprentices were committed for a Riot, and some other Apprentices conspired to release them, and to kill the Lord Mayor, and to provide themselves with Armour, by breaking open two Houses near the *Tower.* They had a Trumpet, and a Cloak on a Pole for a Flag, and were going to the Lord Mayor's House, but were opposed by the Sheriffs, whom they resisted; and this was held to be Treason by levying War.

4thly. By adhering to the King's Enemies; by aiding, assisting, comforting them; by sending them Money, Provision, Ammunition, &c. by surrendering any Fort or Castle to them for Reward, by selling or going

4thly. Adhering to the King's Enemies, &c.

going over with any of the King's Ships of War, or giving the Enemy any Intelligence or Assistance, &c.

If the King's Subject becomes a Rebel, and flies beyond Seas, he is nevertheless not properly called an Enemy, but a Traitor, and shall have Judgment against him as such, and not as an Enemy, because an Enemy owes no natural Allegiance to the King, as a Subject does. And therefore if such a Person is succoured out of the Realm; this, as my Lord Hale says, is not Adhering to an Enemy within this Clause.

An Enemy coming into *England* in a war-like Manner, shall be executed by the Laws of War or Martial Law, but a Subject assisting him is a Traitor.

Treason committed out of the Realm, may be tried where the King pleases in the Realm.

By Stat. 26 H. 8. c. 12. Treason committed out of the Realm shall be enquired of in such County, and before such Persons as the King shall appoint by Commission. And upon every Indictment and Presentment so found and certified into the King's Bench, like Process and Proceedings shall be there had and made against the Offender, as if such Treason had been committed within this Realm. And all Process of Outlawry against such Offender, though out of the Realm, shall be as good in Law as if the said Offender had been resident in this Realm, and shall incur the same Forfeitures, &c.

What Question

What the  
Principle

By Statute  
the King

By Stat. 35 H. 8. c. 2. all Treasons, Misprisions of Treasons, and Concealments of Treason committed out of the Realm, shall be enquired, heard, and determined before the Justices of the King's Bench, or before Commissioners in such County as the King shall assign, in like Manner as if the Offence had been committed in the same Shire where it is so enquired, heard, and determined. But a Peer shall be tried by his Peers.

So if done on  
the High Seas.

By Statute 28 H. 8. c. 15. all Treasons, Murders, Robberies, Piracies, and all other capital Offences committed on the High Seas, or within the Admiral's Jurisdiction, shall be inquired into, tried, heard, and determined in such Places and Counties within the Realm, as shall be limited by the King's Commission in like Manner as if such Offences were done at Land. Though by the Civil Law it must be tried before the Admiral.

Indictment of High Treason for adhering to the King's Enemies, setting forth that he with many *Frenchmen*, Enemies to the King, did navigate a Ship called the *Clansarty*, with a Design to destroy the King's Ships. It was objected that the Adhering was not acknowledged

ledged to be against the King; and that the bare Navigating, &c. was not an Overt-Act of adhering, without fighting, or some Act done in an hostile Manner. Adjudged that an Indictment for levying War or adhering to the King's Enemies, is not good, without shewing some particular Instances: For these Words, viz. (And be provably attainted by some Overt-Act) do immediately follow, and are connected to those Treasons; and that a distinct Overt-Act cannot be given in Evidence, but only such Overt-Act which relates to prove the Treason alleged in the Indictment. But in the principal Case adjudged that Adhering to the King's Enemies is an Adhering against him; and that Joining with Rebel Subjects and Fighting under the Command of an Alien Enemy, is Adhering to the King's Enemies; and that Navigating that Ship, without doing any hostile Act, is an Overt-Act of adhering. 2 Salk. 634.

14thly. Counterfeiting the Great Seal is Treason, but Compelling to do it is not Treason; for it must be actually counterfeited, and it must be like the Great Seal.

If the Chancellor put the Great Seal to a Patent, without a Warrant, it is no Treason now, though it was otherwise before the Making this Statute of 24 E. 3. c. 2. as appears by *Britton* and *Bracton*, who wrote before that Time.

Putting the Great Seal to another Patent, is not Counterfeiting (as my Lord Coke says) but a great Misprision. And this was the Case of one *Leake* of the Six Clerks Office, who glued two Skins of Parchment so close together that it could not be perceived, and put a Label through both; and upon the Uppermost he wrote a Patent, and got the Great Seal affixed to the Label, then he took off the written Parchment, and left the Label hanging to the Blank: This was held not to be Treason, but only a Misprision.

Those who aid and consent to Counterfeiting are within the Statute; but the Counterfeiting the Privy Signet is not Treason within this Act; but it is declared so to be by a subsequent Statute, viz. by 1 E. 3. c. 2. M. c. 11.

One *Robinson* counterfeited the Privy Seal, but he omitted some Words in the Style, and added other Words on Purpose that there might be a Difference between the true Seal and the counterfeit. He likewise counterfeited a Grant; and by the Help of this counterfeit Privy Seal, he got the Great Seal affixed.

shly. Counterfeiting the Great Seal, &c.

The Privy Signet.



to his Patent, and collected Money by these Patents. This was declared to be High Treason. 2 Roll. Rep. 31.

To forge the Coin was Treason at Common Law, though the Offender did not utter it, and to counterfeit it is made so by the Statute 25 E. 3. c. 2.

Clipping and  
Coining, &c.  
is Treason.

Clipping was not Counterfeiting, within the Meaning of Stat. 25 E. 3. c. 2. but afterwards by 5 El. c. 11. Clipping, Washing, Rounding, or Filing the proper Money of this Realm (for Lucre sake) or of foreign Money made current here, was made High Treason, 2 Jones 233.

Afterwards by 18 El. c. 1. Impairing, Falsifying or making light our Coin or foreign Money made current here (for Lucre sake) was made Treason. These are Crimes of the same Nature with Clipping, but they differ in the Punishment, for these later Offences work no Corruption of Blood.

If one coining Money by the King's Warrant, make it less in Weight than it ought to be, or shall coin false Metal knowingly, it is Treason; but Coining Half-pence is not Treason, but is punishable.

But in 6 & 7 W. 3. A new Law was made to prevent the Clipping, Diminishing, or Impairing the Coin of this Realm.

The Punish-  
ment of buying  
or selling Clip-  
pings, &c.

By it the Buyer or Seller of Clippings or Filings, or any Person who shall knowingly have them in his Possession, shall not only forfeit the same, but likewise 100*l.* one Moiety to the King, and the other to the Informer; and shall also be burnt in the Right Cheek with the Letter R. and be committed till he pay the Fine.

Two Justices  
and Wardens  
of Goldsmiths  
Company may  
enter, &c.

And in order to discover such Offenders, it is enacted that two Justices of Peace in any County, and one or more Wardens of the Company of Goldsmiths, with two or more of their Assistants, if within the Weekly Bills, &c. may enter the House of any suspected Person; and if resisted, may with the Assistance of a Constable, break it open and seize the Bullion and the Person, and carry him before the next Justice, who is to examine him upon Oath, &c. viz. Whether it was lawful Silver, and whether it was not the current Coin of this Realm, or the Clippings thereof, before it was melted; and if it is not proved by Oath as aforesaid, or by the Oath of a credible Witness, that it is lawful, and that the same was not Clippings before it was melted, then the Justices may commit the Person and secure the Bullion, and com- pel

pel the Witnesses to enter into a Recognizance to prosecute. And if the Person on his Trial, on an Indictment for melting the current Coin, &c. shall not prove by the Oath of one Witness, that it was lawful Silver, and not the current Coin, &c. nor Clippings thereof, before it was melted, he must be found Guilty, and be committed without Bail, for six Months.

He who apprehends and prosecutes such Offender to Conviction, shall receive of the Sheriff 40 l. within a Month after Conviction, producing the Judge's Certificate. Casting Ingots of Silver, or stamping any Marks to imitate *Spanish Bars*, Penalty 500 l. and Forfeiture of the Silver so cast.

By 14 *El. c. 3.* if any shall falsely forge or counterfeit any Coin of Gold or Silver, not current in this Realm, he and his Procurers, Aiders, and Abettors (after Conviction) shall be imprisoned and forfeit their Lands and Goods, as in Case of Misprision of Treason.

By Stat. 13 & 14 *Car. 2. c. 31.* none shall melt the Silver Money of this Realm, on Pain to forfeit it and double the Value; one Half to the King, the other to the Informer. The Offenders, if Freemen or privileged Persons of Cities and Corporations, shall be disfranchised, and made incapable of exercising any Trade by Virtue of the Privilege of the said City or Corporation; if not, they shall be imprisoned for six Months.

By Stat. 1 & 2 *P. & M. c. 11.* if any Person bring from beyond Sea into this Realm, or any of the Dominions thereof, any false or counterfeit Coin or Money (allowed to be current in this Realm) knowing it to be so, with Intent to utter the same here, by merchandizing or otherwise, both he and his Accessories shall be adjudged Offenders in High Treason, and shall be adjudged and convicted, or attainted for the same, by such Evidence, and in such Form as hath been used within this Realm before the first of *E. 6.* It must be counterfeit and made in Imitation of *English Money*, and brought from foreign Parts, not within the Dominions of the King. It must not barely be uttered here, but it must be brought in and uttered by one and the same Person: If so it is Treason.

By Stat. made 8 & 9 *W. 3. c. 25.* they who make Punchcons or Dies knowingly, or mending, beginning, or proceeding to make them, or assisting therein, or any Edging-Tool or Coining-Press, or Cutting-Engine, or having in their Possession any such Punch-

Or stealing  
them out of the  
Mint.

Falsc Money  
broke in open  
Court.

Blanching  
Copper, and  
putting off bad  
Money for less  
than Value, is  
Felony.

Any one may  
break bad Mo-  
ney.

son, without any lawful Authority, shall be Guilty of High Treason.

So likewise any Person conveying out of the Mint any Punchcon, Die, &c. and Person knowingly concealing the same, shall be Guilty of High Treason.

The like Penalty on Persons making the Edges of any counterfeit Coin, and likewise on those who colour or gild any Coin in Resemblance of the current Coin, or round Blanks of base Metal, or gilding silver Blanks fit to be coined.

And if any Punchcon or Die is found in the Possession of any Person not lawfully employed in the Mint, it may be seized and produced in Evidence against such Person, and then it shall be broke into Pieces; and so shall all counterfeit Money produced in Evidence. And this must be done in open Court, or in the Presence of some Justice of Peace, and then delivered to whom of Right it doth belong.

Persons blanching Copper for Sale, or mixing blanchd Copper with Silver, or buying or selling, or offering to Sale any malleable Mixture of Metals which shall be heavier than Silver, and look, and touch, and wear like Gold; or he who shall take, pay, or put off counterfeit milled Money, or any milled Money unlawfully diminished and not cut in Pieces, for less than its Denomination doth import, every such Person shall be Guilty of Felony. But this Act makes no Corruption of Blood, or Loss of Dower.

This Act being at first but Temporary, was by the 7 Ann. made perpetual. And whereas the Prosecution upon that Act was to be within three Months after the Offence, that Time was enlarged by this subsequent Statute, as to any Prosecution for making or mending, or beginning, or proceeding to make or mend any coining Tool or Instrument therein prohibited, or by marking Money round the Edges with Letters; for in all these Cases the Prosecution may be at any Time within six Months after the Offence committed.

By an Act 9 C. 2. it was made lawful for any Person to cut or break in Pieces any Silver Money tendered in Payment, which shall be diminished, or which by the Impression, Colour, or Weight, shall be suspected to be counterfeited; and the Person rendering the same shall stand to the Loss; but if it is full Weight and good Money, then the Person breaking it shall receive it at the Rate for which it was coined.

Any



Any Dispute arising whether the Place or is coun- If any Dispute, cessary, if in a City or Town Corporate, shall be de- it may be de- termined by the chief Magistrate; if in the County, cided by the then by the next Justice of Peace, who may admi- Justice. nister an Oath, if they shall see it convenient.

The Tellers and Clerks of the Exchequer, and the General Receivers of every Branch of the Revenue and Taxes, must cut every counterfeit Piece that shall be tendered in Payment; and the better to discover the same, shall weigh in whole Sums or otherwise all Silver Money by them received. Tellers of Exchequer must weigh the Money, &c.

Counterfeiting the Coin was Treason by the Common Law, and it is held that Washing, Filing, Diminishing, &c. for Lucas sake, is Counterfeiting within the Meaning of the Stat. of 5 EA and the Counsellors, Consenters, and Aiders within the Statute 13 EA.

Forging our Coin is Treason, and Forging foreign Coin made current here, is likewise High Treason. Per 1 Mar. c. 6.

Importing or Bringing in counterfeit Coin knowingly, is Treason, by the Stat. of 25 E 3. c. 1. But then it must be brought from a foreign Nation, not under the Dominions of England; and it must be in Likeness of our Money, and the Importer must know it to be counterfeit, and must make Payment thereof; and one Witness is sufficient to convict the Offender. R. F. C. 262.

Uttering false Money, knowing it to be so, is not High Treason, but a great Misdemeanor, and fineable.

Uttering false Money knowing it to be so, is fineable.

But if he who utters it doth know who coined it, or if he supplied the Coiner with coining Tools, or with Silver, and Money is coined accordingly; in either of these Cases he who utters it is Guilty of High Treason, because he is aiding and assisting to the Coining. Kehuge 33.

And here it may not be improper to mention the Value of foreign Coins which pass in our Plantations abroad, the Currency whereof was settled by the Queen's Proclamation in June 1704. and the true Values of them, according to their Weight and Assays, are as follows;

- Scott Pieces of Eight, old Plate, 4s 6d
- Scott Pieces of Eight, new Plate, 3s 7d
- Minor Pieces of Eight, 17 Penny-weight, 4s 6d
- Minor Pieces of Eight, 17 Penny-weight, 4s 6d
- Peru Pieces of Eight, old Plate, 17 Penny-weight, 4s 5d

Cross Dollars, 18 Penny-weight, 4s. 4d.  
 Ducatoons of *Flanders*, 20 Penny-weight, 5s. 6d.  
 French Crowns, 17 Penny-weight, 4s. 6d.  
 Crusado's of *Portugal*, 11 Penny-weight, 2s. 10d.  
 Three Gilder-pieces of *Holland*, 5s. 2d.  
 Old Rix-Dollars, 18 Penny-weight, 4s. 6d.

The Halfs, Quarters, and others in Proportion; but none of *Sevil*, *Mexico*, or *Pillar* Pieces of Eight, though of 17 Penny-weight and an Half, shall pass for more than Six Shillings apiece; and the *Pera* Pieces of Eight and Dollars and other foreign Coins, shall be regulated according to their Weight and Fineness, in Proportion to the Pieces of Eight of *Sevil*.

By Stat. 6 & 7 W. 3. c. 17. any one who apprehends and takes any Person who counterfeits any of the Coin of this Kingdom, or for Gain shall clip, wash, file, or diminish the same, or shall bring such into this Kingdom, and prosecute such Offender to Conviction, shall receive from the Sheriff of the County, within one Month after conviction, the Sum of 40*l.* producing the Judge's Certificate, &c. The Sheriff for refusing such Payment, forfeits double, to be recovered by Action of Debt, &c. and treble Costs.

Any Person Guilty of Clipping, &c. who shall discover two or more of the like Criminals, so as they shall be convicted thereof, such Discoverer shall have his Pardon; and if he be an Apprentice his Freedom.

Bullion seized on Shipboard, and questioned whether *English* or Foreign, the Proof shall lie upon the Owners that the same is Foreign.

Bullion to be transported, forfeited if not entred in the Name of the true Owner. 6 & 7 W. 3. c. 17.

No Bullion must be shipped without a Certificate from the Lord Mayor, &c. if it is, then it is forfeited one Half to the King, the other to the Seignor, &c.

By Stat. 7 & 8 W. 3. c. 19. no Person whatsoever shall ship or cause to be shipped any molten Silver or Bullion, either in Bars or Ingots, or any other Form whatsoever, without a Certificate from the Lord Mayor and Court of Aldermen of *London*, that Oath hath been made before them by the Owner of the said Bullion, and likewise by two or more credible Witnesses that the said Bullion, and every Part thereof, is foreign Bullion, and that no Part thereof was the Coin of this Kingdom, or Clippings thereof, or Plate wrought within this Kingdom; which Certificate is to be entred in a Book kept for that Purpose by the said Court; and such Certificate must be produced to the Commissioners of the Customs, before any Coquet be granted for exporting such Bullion.

Any

Any Officer of the Customs, or any other Person, may seize any Bullion whatsoever that shall be ship'd off, without Oath, Certificate and Entry as aforesaid, as forfeited; one Moiety to the King, the other Moiety to the Seizor. And the Owner and Proprietor of such Bullion shall forfeit double the Value thereof, one Moiety to the King, and the other to such Person as shall sue for the same, to be recovered with Costs of Suit by Action of Debt, &c. wherein no Privilege, &c. shall be allowed. And the Captain or Master of such Vessel (if belonging to a Subject) who knowingly permits such Bullion to be put on Board, shall forfeit to such Person as shall sue for the same, the Sum of 200*l*. And if the Ship belongs to his Majesty, then beside the Sum of 200*l*. the Captain shall also forfeit his Employment, and be made incapable of any other.

Every Commissioner or Officer of the Customs, who shall grant any Cocker for exporting any Bullion, otherwise than as in this Act is appointed, shall forfeit 200*l*. and be made incapable of any Office or Trust whatsoever.

In Case any Seizure be made, or Action be brought on any of the Forfeitures incurred by this Act, and Question should arise whether the Bullion in Question be foreign or not, the Proof shall lie on the Part of the Owner or Proprietor; and unless he proves it foreign Bullion, and that no Part thereof was the Coin, Clippings, or Plate of this Kingdom, it shall be adjudged to be forfeited Bullion by this Act.

§ 8 *W. 3. c. 19.* The Value of Gold and Silver, and the Mixrure of Alloy here in England is as followeth; viz. One Penny-weight of Angel Gold is worth Four Shillings and Two-pence Half-penny; of Crown-Gold Three Shillings and Ten-pence Half-penny, and of Sovereign Gold Three Shillings and Six-pence Half-penny. The Standard of Sterling Silver is Eleven Ounces, and Two Penny-weights of fine Silver, and Eighteen Penny-weight of Alloy of Copper; so that Twelve Ounces of pure Silver, without any Alloy, is worth Three Pounds Four Shillings and Six-pence, and One Ounce Five Shillings and Four-pence Half-penny; but with Alloy the Pound is worth but 3*l*. and the Ounce only 5*s*. The Standard for Gold is in the Pound Troy Eleven Ounces of fine Gold, and One Ounce of Alloy.

Our



Our Gold is of equal Fineness with the Spanish, French and Flemish; but our Silver Coin has less Alloy in it than either French or Dutch.

Clipping, Washing, Filing, &c. is made Treason by 3 El. c. 11. but then it works no Corruption of Blood, or Loss of Dower.

And Forging it, if not current here, is Misprision of Treason in the principal Forgers, their Aiders and Abettors, by 14 El. c. 3. By Stat. 29 El. c. 2. no Record of Attainder of Treason shall be reversed where the Party attainted is executed for the same Offence.

By a Stat. made 7 W. 3. c. 3. great Alterations were made in Trials of Traitors; for before that Statute Men were committed for Treason and their Friends were not suffered to come near them; they had neither Pen, Ink, or Paper, and did not know for what

The Law and Method for Trials in High Treason, &c.

Treason they were committed, or by whom accused: If by chance any Person advised them without Leave of the Court, he was punishable; and if upon the Arraignment the Prisoner desired Counsel upon any Point of Law, those Counsel must be ready to argue it *instantly*, and the Court did give Judgment as soon.

It is true he had Liberty to except against any of the Jury, but that could be no Advantage to him, because he never had a Copy of the Panel to consider against whom to except.

When he produced any Witnesses, they were not to be examined upon Oath, &c.

But by this Statute it is provided that a Person indicted for Treason, whereby Corruption of Blood may be made, or for Misprision of such Treason, shall have a Copy of the whole Indictment five Days before his Trial, he desiring the same; but then this must be before he pleads, for afterwards it is too late. 2 Sess. 634.

And this is that he may advise with Counsel, by two of whom he may make a full Defence, and his Witnesses are to be examined upon Oath. He is to pay for his Copy, not exceeding 3s. but he is not to have the Names of the Witnesses for the King.

And no Man shall be Indicted, Tried, or Attainted of such Treason or Misprision, &c. but upon the Oaths of two lawful Witnesses, who shall both speak to the same Overt Act of Treason, or to two different Acts, but of the same Treason, unless the Party in mate, refuseth to plead, or challengeth above 35 peremptorily, or confesseth his Crime.

But such Offender may be outlawed, and if attainted by Outlawry, yet he may come in and be tried by

Law,

Law, after such Outlawry, and he shall upon his Trial have the Benefit of this Act.

Where two or more distinct Treasons of diverse Kinds shall be alledged in one Indictment, one Witness to one Species of Treason, and another Witness to another, shall not be two Witnesses within the Meaning of that Law, and no Evidence shall be given of any Overt-Act which is not expressly laid in the Indictment.

The Prosecution must be within Three Years after the Offence committed, except it be for a Treason in designing or attempting to kill the King, which may be prosecuted at any Time.

All Persons indicted of Treason or Misprision of Treason, shall have Copies of the Jurors, who are to try them two Days at least before their Trial; and all Persons so indicted shall have like Process to compel their Witnesses to appear for them as is usually granted for Witnesses against them.

No Indictment for any of the Offences aforesaid, nor any Process nor Return thereupon, shall be quash'd on the Motion of the Prisoner, for Miswriting, false or improper Latin, unless Exception for the same be made by the Prisoner or his Counsel, before Evidence given in Court. Nor shall any such Miswriting, &c. after Conviction, be Cause to arrest Judgment; yet any Judgment given upon such Indictment may be reversed upon a Writ of Error in the same Manner as if the Act had not been made.

When a Peer or Peeres is to be tried for Treason or Misprision of Treason, all the Peers who have a Right to sit and vote in Parliament, shall be duly summoned twenty Days at least before the Trial, and vote at the same, having taken the Oaths by Law appointed, and subscribed the Declaration specified in the Act 30 Car. 2.

This Act is not to extend to any Impeachment or other Proceedings in Parliament, nor to any Indictment of High Treason, or any Proceedings thereupon, for counterfeiting the King's Coin, his Great Seal, Privy Seal, Sign Manual, or Signet.

Not to extend to coining, &c.

But there is likewise another Treason created by the Acts made 4 & 5 Ann. c. 8. and 6 Ann. c. 7. and that is, if any one shall maliciously, advisedly, or directly, by Writing or Printing, declare or affirm that the Queen is not lawful Queen, or that the pretended Prince of Wales hath any Title to the Crown, or that any other Person hath a Right to it, other-

To declare by Writing or Printing that the King is not lawful King, or that any other have a Right to the Crown, &c. is Treason.

wife

wise than according to the Acts of Settlement made 11 & 12 W. 3. or that the Kings and Queens of England are not able, by the Authority of their Parliaments, to make Laws sufficient to limit and bind the Crown of this Realm, shall be guilty of High Treason, and being thereof convicted and attainted, shall suffer Death and all Losses and Forfeitures, as in Cases of High Treason.

On these Acts one Matthews, who had printed a Pamphlet, wherein he affirmed that the Pretender had Right to the Crown, was tried, and, by the Opinions of all the Twelve Judges, was found guilty of High Treason, and thereupon executed.

So by Words, if proved in three Days, and Prosecution in three Months. And the same Acts provide, that if any one, by Preaching, Teaching, or advised Speaking, shall declare, maintain and affirm as aforesaid, such Person, being lawfully convicted, shall incur the Penalty of a Premunire.

But if the Prosecution be for Words, there must be Information given of such Words, upon Oath, to one or more Justices of Peace, within three Days after the Words are spoke; and then the Prosecution must be within three Months after such Information; and the Conviction must be by Oath of two credible Witnesses.

The Method of finding Bills of Treason in Scotland. By Stat. 6 Ann. c. 23. it is enacted, That for the Trial of any Peer of Great Britain, committing High or Petty Treason, or Misprision of Treason, Murder or Felony in Scotland, Commissions may issue under the Great Seal of Great Britain, constituting Justices to enquire, by the Oaths of good and lawful Men of such County of Scotland as shall be named therein, of all such Treasons, Misprisions, Murders or Felonies, committed by a Peer of Great Britain; which Inquisition shall be taken in Manner as Indictments before Justices of Oyer and Terminer of any County in England, and be proceeded on in the same Method as such Inquisition found before such Justices, whereby any Peer is indicted for such Offence.

And such Justices shall issue Precepts to the Sheriff of such County, to return so many good and lawful Men of the same County, as may be sufficient to enquire of the said Offence; and twelve or more returned, being sworn, shall be sufficient to make Enquiry, and find any Indictment.

And if such Sheriff shall not summon a sufficient Number, or if any Person summoned does not appear,



the Justices may impose Fines, to be levied by Process, out of the Exchequer.

An English Traitor pleading that he is subject to a Foreign Prince, shall, notwithstanding, (upon a *Nihil dicit* recorded) have Judgment as a Traitor. *Dyer* 300.

To set at large unlawfully any Person committed to Custody for Treason, is Treason by the Common Law.

1 H. 6. f. 5. *Stamf.* 32. 1.

One imprisoned for Felony breaketh Prison, where 'Tis Treason to by a Traitor escapeth, it is Treason in him by the Common Law. *Cro.* 35. a. N. 5.

Voluntarily to suffer one to escape that is committed, or under Arrest for Treason, is Treason by the Common Law. *Stamf.* 32.

To extol the Authority of the Bishop of Rome with- in any of the King's Dominions, and the Procurers, Counsellors, Aiders and Maintainers thereof, the first Offence is a Premunire, the second Treason. 1 El. c. 1.

1 El. c. 11. *Lamb.* 411.

So to bring over any Books that shall maintain, set forth or defend such Authority, and the Readers and Hearers that shall justify them. *Ibid.*

So Deliverers of such Books to others, with Allowance and Liking of the same. *Ibid.*

So the Printers and Uterers of such Books are all within the Meaning of 5 El. c. 11. *Ibid.*

Refusing the Oath of Supremacy, the first Offence is a Premunire, the second Offence is Treason. 5 El. c. 11.

To obtain from Rome, or by any Authority from thence, any Bull or Writing, to absolve and reconcile such as will forsake their Obedience to the King, and yield it to the Pope, or give or take Absolution by Colour of such Bull, or publish or put in Ure such Bull. 13 El. c. 2.

To absolve, persuade or withdraw any Subject from their Obedience to the King, or to reconcile them to the Pope, or to draw them to the Romish Religion for that Intent, or move them to promise Obedience to any other State, or procure, counsel, or aid them that do it, is Treason. 23 El. c. 1. 3 Ja. 1. c. 4. *Lamb.* 220, 226, 412.

To be willingly absolved, persuaded, withdrawn or reconciled to promise such Obedience, or to procure, counsel, aid and maintain the same, is Treason; except, within six Days after their Return into the Realm, they submit according to the Statute 3 Ja. 1. c. 4.

For

For Jesuit, Priest, or other Ecclesiastick Person, (made by Authority from the Pope) to come into or remain in any of the King's Dominions, contrary to 27 *El. c. 2.* is Treason.

If any of the King's Subjects (not being a Jesuit or Ecclesiastical Person) brought up in any Seminary beyond Sea, shall not (within six Months after Proclamation made in London) return into this Realm, and within two Days after his Return, (before the Bishop of the Diocese, or two Justices of Peace of the County where he shall arrive) submit himself to the King's Laws, and take the Oath of Supremacy, (see forth *El. 1.*) he or they shall be adjudg'd to be Traitors. *Ibid.*

To convey, deliver or send, yield or give any Relief to or for any Jesuit or Priest, &c. or other Person abiding in any Seminary beyond the Seas, &c. is a Premunire.

To bring into this Realm any *Agnes Dei* Crosses, Pictures, Beads, or such like superstitious Things, and to deliver them to any Subject of this Realm, is a Premunire.

Corresponding with the Pretender, &c. is Treason.

The Pretender, by Stat. 13 & 14 *W. 3. c. 3.* stands convicted and attainted of High Treason; and if any of the King's Subjects shall correspond with him, either in Person, or by Letters, or otherwise, or with any Person employed by him, knowing the Person to be so employed, or shall remit any Sum of Money, knowing it to be for his Use, this is Treason.

To practise with the Prince of any Foreign Country or State, to invade this Realm, is High Treason, tho' it be not put in Ure. *Dyer 298. A. Dr. Sany's Case. Vid. Camd. El. Ann. 1571.*

If a Subject go beyond Sea, and join with the King's Enemies and die, or be slain there fighting against the King's Subjects, this seems to be Treason, and an Attainder in Law, without any more, &c. So of Subjects within the Realm, joining themselves to the King's Enemies, and fighting against the King's Subjects, and are slain. *Plowd. 162, 163.*

If a Person outlaw'd for Treason surrenders himself to the Chief Justice within a Year and a Day after the Outlawry pronounced, he shall be admitted to Trial.

Judgment

**Judgment in High Treason.**

Judgment in High Treason in all Cases (except Counterfeiting the Coin) is, That the Offender shall be drawn to the Gallows, and there hanged by the Neck, and cut down alive, his Entrails taken out and burnt, his Head cut off, his Body quartered, and his Head and Quarters disposed of at the King's Pleasure.

But for counterfeiting Money, 'tis to be drawn and hanged, but not quartered.

In both Cases, Judgment is for a Woman to be drawn and burnt.

Coining is esteemed an inferior Sort of Treason, in respect to such as concern the Person of the King: And therefore, if Drawing and Hanging, but without Quartering, is the Judgment for Coining, then it seems but reasonable it should be so for Clipping and for Uttering false Money, knowing it to be so. *2 Vent. 214.* The some of our Law Books seem to speak otherwise, as *On. Cas. 383. Dyw 230. &c.*

**In Petty Treason.**

For a Man, is to be Drawn and Hang'd.

For a Woman, Drawn and Burn'd.

**In Felony.**

The Offender is to be Hang'd till dead.

**In Petty Larceny.**

To be whipt and Forfeiture of Goods.

**In Death by Chance-Medley.**

There is no express Judgment, but the Goods are forfeited.

*In*



*In Death se Defendendo.*

The like as in Chance-Medley.

*In Misprision of Treason.*

Forfeiture of Lands during Life, of Goods and perpetual Imprisonment.

But the Goods of these Offenders are not to be seized before an Indictment found, or removed before Attainder.

As to Forfeitures, *Vide Title Forfeitures.*

As to what relates to Executions, 'tis usually said, that in Treason the King may remit all other Parts of the Sentence, except Cutting off the Head; but in Felonies, the Judgment must be executed in the Method prescribed by Law; and therefore, if in such Case the King should order a Criminal to be beheaded, when the Judgment is to be hang'd, it would be Murder in the Sheriff and his Officers, and they must suffer for it without a Pardon.

But this seems to be a Mistake; for in the Reign of Ed. 6. the Duke of Somerset was attainted in Parliament of Felony, and yet was beheaded, which is no Part of the Sentence. And in the Reign of Car. 1. the Lord Audley was condemned likewise for Felony, and, by the Opinion of all the Judges, the Execution was changed from Hanging to Beheading.

Forfeiture in  
High Treason.

In High Treason the Offender forfeits all his Lands in Fee or in Tail, or for Life or Years, from the Time of the Treason committed, and all his Goods and Chattels, of what Kind soever, from the Time of the Attainder or Conviction.

In Cases of Treason, the Court may allow a Pardon without a Writ of Allowance, but not in Felony; so that when a particular Pardon is pleaded, it must be *sub Sigillo*, and it ought to have a Writ of Allowance; but a Clause of *non Obstante* dispenses with that Writ. *Cro. El.* 814.

Sir *Walter Raleigh* was attainted of Treason 1 *Ja. 1.* and kept Prisoner in the Tower twelve Years; then the King gave him a Commission to go to *Guayana*, and Authority to execute Martial Law, and Power over the Lives of other Men. He went to *Guayana*, and upon his Return, was committed again to the Tower, and brought to the Bar, and had Sentence, and was executed upon the old Attainder; tho' he insisted in his Defence, that his having Power by his Commission over the Lives of other Men, implied a Pardon; but the Court would allow no Pardon by Implication, and ruled, that no Man could be pardoned but by expresse Words. 2 *Cro. 495.*

All Treason includes Felony, therefore if the Indictment wants the Word (*Proditorie*) a Pardon of all Felonies discharges it. *Co. Pl. Coron. 3 Inst. 15.*

Information against a Person who has committed Treason, whereon to ground a Warrant.

The Information of *A. B. of, &c.* taken upon Oath before me *J. S. Esq;* one of his Majesty's Justices of Peace for the County of, &c. the Day, &c.

**T**His Informant saith, That on, &c. last past, and at divers other Times and Places, he was present with *C. D. E. F. J. M.* and others, and did then and there hear them consult and conspire how to levy War against, and to depose and assassinate his sacred Majesty King George that now is; and further, that he knows the said Conspirators have provided Arms and other Things, in order for the Execution of their said traiterous Designs.

A Warrant on the preceding Information, to search for and apprehend Persons who have committed Treason.

25 E. 3. c. 2.

**E**ffex. ff. **W**hereas A. B. and C. D. have committed Treason, wherof I have received Information upon Oath, made this Day before me; These are therefore (in his Majesty's Name) streightly to charge and command you, and every of you, upon Sights hereof, without any Delay, to make diligent Search for the Bodies of the said A. B. and C. D. and them, or either of them so found, to take and arrest, and immediately upon such Arrest, to bring before me at my House at K. in the said County; wherof you are not to fail at your Peril. Given under, &c.

The Method of Justices Proceedings on Information of Treason.

When any of the said Traitors shall be brought before the Justice, he must take the Examination of them in Writing, (but not upon Oath); as also the Informations of the Accusers, which must be upon Oath; together with such other Circumstances as he in his Discretion shall think proper for the Discovery of such Treason.

The Form of the Examination may be thus.

**T**HE Examination of A. B. &c. taken before me J. S. Esq; one of his Majesty's Justices of Peace for the County of E. the 3d Day of July, in the first Year of the Reign of our Sovereign Lord George the Second, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c. Annoq; Domini 1728.

The said Examinant, being duly examined, saith, That, &c. And so set down every particular Answer that the Prisoner makes to the Questions demanded of him.

This being done, the Justice of Peace must take the Informations of the Accusers, and such others as can give any Evidence material against the Prisoner, and their Informations must be taken in Writing severally, and that upon Oath.



The Form whereof may be thus.

**T**HE Information of J. M. of, &c. taken upon Oath before me J. S. Esq; one of his Majesty's Justices, &c. the 3d Day of July, in the first Year of the Reign of our Sovereign Lord King George, &c.

This Informer, being this Day examined upon Oath before me, saith, That, &c. And so set down at large all the material Circumstances that he shall declare to prove the Treason, &c.

This being done, the Justice must make a *Mittimus* to send the Prisoner to the Gaol.

### A *Mittimus* to the Gaol.

To the Keeper, &c.

Essex. ff. **I** Send you herewith the Body of A. B. brought before me this present Day, and charged with Treason: These are therefore (in his Majesty's Name) to command you, that, immediately upon Sight hereof, you receive the said A. B. into your Custody, and him safely keep in your said Gaol, till he shall be from thence delivered by due Course of Law

This being done, the Justice of Peace must take a several Recognizance of every one of the Accusers, and of every one who can give Evidence against the Prisoner, to appear at the Assizes, &c.

In High Treason there are no Accessaries, but all are Principals; and therefore my Lord Coke tells us, that what will make a Man accessory to a Felony before the Fact, the same will make a Man a Principal in High Treason.

And when the Justice of Peace hath sent the Traitors to Gaol, he ought to dispatch a Messenger, with the Examinations he hath taken, to one of his Majesty's Secretaries of State, in order that they may be proceeded against by the Attorney General, and other his Majesty's Counsel at Law, &c.

# A Warrant to apprehend a Person for Coining Money, and to seize his Instruments, &c.

Essex. ff. **W** Hereas A. B. of, &c. hath this Day made Oath before me, that on, &c. last past, at the House of C. D. situate in, &c. he being in the next Room to a private Shop or Warehouse of the said C. D. (who is by Trade a Silver-Smith) thro' a Hole or Cranny in the Partition Wall or Door, saw the said C. D. busy with many Tools and Instruments, in Making and Moulding some Pieces of White Metal, of a round Form, and about the Size of Shillings and Half-Crowns, which he takes to be Coining of Money: These are therefore, in his Majesty's Name, to command you to apprehend the said C. D. and seize the Tools and Instruments and Money, which you can find in the Shop or House of him the said C. D. and that you do bring him, together with the said Tools and Instruments and Money (if any such you can find) before me or some other of his Majesty's Justices of the Peace for this County, to be examined concerning the Premises, and to be dealt with according to Law. Given, &c.

# A Warrant to commit a suspected Person, who could not prove that the Bullion was lawful Silver.

To the Constable of, &c. and to the Keeper of the Common Gaol for the said County at C.

6 & 7 W. 3.  
Two Justices,

Essex. ff. **W** Hereas a certain Quantity of Bullion hath been lately found and seized in the Possession of L. M. of, &c. which said Bullion, before the Melting thereof, is suspected to be unlawful Silver: And whereas, upon the Examination of the said L. M. taken before us this present Day upon Oath, he hath not made sufficient Proof that the said Bullion, before the Melting thereof, was not Current Coin, or Clippings of such Coin, according to the Form of the Statute in that Case made and provided: These are therefore to command you to convey the said L. M. to the Common Gaol at C. aforesaid, and to deliver him there to the Keeper thereof, together with this Precept; commanding

ing also you, the aforesaid Keeper, to receive the said L. M. into your Custody and Gaol aforesaid, and him there safely to keep, until he shall be from thence delivered by due Course of Law. And hereof fail not. Given, &c.

An Indictment for Coining and Uttering false Money, and against another for Relieving after the Offence.

Essex. ff. **J**UR', &c. quod L. M. de, &c. Deum pre oculis suis non habens sed Instigatione Diabolica seductus 25 die Augusti Anno, &c. apud Haroch' de, &c. in Com' pzed' triginta pecias de stanno plumbo & aliis mirtis metallis ad instar & similitudinem bone & legalis & curren' monet' Regis hujus Regni Angl' vocat' solid' (Anglice Skillings) falso & proditorie fabricabit rudis & contrafecit ac sciens pzed' triginta pecias sic ut pzetertur falso & proditorie fore fabricat' easat' & contrafact' idem L. M. quinque pecias inde postea scilt' pzed' 25 die Augusti Anno, &c. apud, &c. in Com' pzed' & alibi diversis dicti Domini Regis subditis pro vera legitima & corrente moneta hujus Regni Angl' deceptiva falso & proditorie exposuit solabit & utterabit in magnum pzetudicium fraudem & deceptionem dicti Domini Regis subditorum ac contra pacem Domini Regis Coron' & dignitat' suas necnon contra formam Statut' in hujusmodi casu edit' & pzovis'.

Et quod N. O. de, &c. sciens pzetat' L. M. proditorionem pzed' modo & forma pzed' fecisse & perpestrasse eundem L. M. postea scilt' quinto die Januar' Anno supradicto apud, &c. in Com' pzed' recepit & comfotabit ac proditorionem pzed' concealabit contra pacem dicti Dom' Regis nunc Coron' & Dignitat' suag. 3 Inst. 17. Levinz 2 Part p. 98. 1 Vent. 264.

F f 3

Petty



What is Petty  
Treason.

**P**etty Treason is when a wilful Murder is committed upon a Subject to whom the Murderer oweth Faith and Obedience; as, where a Servant killeth his Master, a Wife killeth her Husband, or joins to kill him, or an Ecclesiastical Person his Bishop or Ordinary. 25. E. 3. c. 2.

This extends likewise to the Mistress who hath no Husband, and to the Wife of the Master.

Cases of it.

If a Servant hath Malice against his Master whilst he is in his Service, and afterwards, being out of his Service, killeth him, this is Petty Treason; but killing him upon a sudden Quarrel, is Manslaughter. 3. Inst. 26.

If the Servant procure another to kill his Master, who does it in his Presence, this is Petty Treason in the Servant, and Murder in the other; but if kill'd in his Absence, then the Servant is only accessory to the Murder.

So where the Servant intends to murder another, and the Master is kill'd.

A Servant of the Age of thirteen Years kill'd her Mistress, and it was adjudg'd Petty Treason. Co. 118.

If the Servant induces one to beat his Master, and he kills him, this is Petty Treason in the Servant, if done in his Presence. *Crompt. 20.*

A Wife maliciously killeth her Husband, this is Petty Treason: The Husband maliciously killeth his Wife, this is but Murder.

The Wife and a Servant conspire to kill the Husband, and the Servant killeth him in the Wife's Absence, this is Petty Treason in them both: But if it had been done by a Stranger, she had been only accessory to the Murder; and then she shall be hanged, and not burnt, because she, as accessory, cannot be guilty of Treason, where the Principal is only guilty of Murder. But it is Petty Treason in her if she be present in the House, tho' not in the same Room.

The Wife lays a poisoned Apple in a Place on purpose to poison another, and her Husband takes it by Chance, and eats, and dieth of it within the Year and a Day: this is Petty Treason in the Wife, for the intended Murder.

The Wife poisoneth an Apple or other Thing, and delivereth it to B. (knowing nothing of the Poison) to give to C. and B. giveth it to the Husband, (without the Assent of the Wife) who eateth thereof in the Wife's Absence, and he dieth thereof, this is Petty Treason in the Wife.

It was anciently held, that it was Petty Treason for a Child maliciously to kill its Father or Mother, (altho' the Father or Mother, at the same Time, gave neither Meat, Drink nor Wages to such Child) in Respect of the Duty of Nature violated. 21 E. 3. 17 Co. 7. 13 b. B. Treas. 6. But it not being mentioned in the Stat. 25 E. 3. c. 2. it is since held, that this Statute shall not be construed by Implication, or according to Equity. Q. 3 Ins. 20 Bacon 53. And therefore it shall not be Petty Treason, unless he was a Servant receiving Wages, as well as a Child.

The Son or Daughter-in-Law killeth Father or Mother-in-Law, with whom they dwell, and have Meat and Drink, it is Petty Treason, altho' such Child take no Wages; but the Indictment shall be by the Name of Servant. *Dalison's Rep. 2. M. 1.*

Unto the Bishop of every Diocese, the Clerks within their Diocese do owe Faith and Obedience, which is called Canonical Obedience; and therefore, if a Clerk, or any Ecclesiastical Person, maliciously kills his Ordinary or Superior, to whom he owes Obedience, this is Petty Treason.

Aiders, Abettors and Procurers, are adjudged to be within this Act.

And whatsoever Act will prove Murder between Strangers, the same will be Petty Treason from the Servant to his Master, from the Wife to the Husband, and from the Clerk to his Prelate; *Mutatis Mutandis.*

N. B. There can be no Petty Treason, but where it includes a wilful Murder: As if a Servant kill his Master upon a sudden Falling out, without Malice precedent, or by Misadventure, or *se Defendendo*, this is no Petty Treason: So of the Wife or Child.

Judgment and  
Forfeiture in  
Petty Treason.

The Judgment in Petty Treason for a Man, is to be Drawn and Hanged; for a Woman, to be Burnt alive.

In Petty Treason the Offender shall forfeit his Goods and Chattels, and the King, in his Fee-Simple Lands, shall have *Annum diem & vasum*, and the Escheat thereof shall be to every Lord of his own proper Fee; but if the Offender have but an Estate-Tail in his Land, he forfeits them but during his Life. *Stamf.* 186, 187. And for Petty Treason, if the Husband be attainted, the Wife shall be debarred of her Dower. *Co. L.* 37.

### An Indictment against a Servant for killing his Master.

Essex. ss. **J**UR', &c. quod A. B. de, &c. die Junii Anno Regni, &c. in domo mansionali E. F. apud A. in Com' pzed' Gen' bi & armis, viz. cum quodam gladio ad balenciam duorum solid' quem idem A. B. adtunc & ibidem in manu sua dextra tenuit in & super pzed' E. F. adtunc Magistrum suum & in pace dicti Domini Regis existent' voluntarie & ex malitia sua pzerogitata insultum fecit & pzetat' E. F. adtunc Magistrum suum adtunc & ibidem cum custello pzed' felonice & proditorie apud A. pzed' in Com' pzed' percussit & vulnerabit & eidem E. F. apud A. B. in Com' pzed' felonice proditorie & ex malitia sua pzerogitata cum custello pzed' unum vulnus mortale in & super dextram partem ventris sui dedit longitudinis duorum pollicium & profunditatis unus pollicis de quo quidem vulnere mortali idem E. F. a pzed' decimo die Junii Anno supradicto usq; quintum diem Julii pzo' sequen' apud A. pzed' languebat & languidus vixit quo quidem quinto die Julii anno supradicto pzed' E. F. apud A. pzed' in Com' pzed' de vulnere mortali pzed' obijt & sic pzed' Jur' super sacram suum pzed' dicunt quod pzetat' A. B. pzed' quinto die Aprilis anno supradicto apud A. pzed' in Com' pzed' pzetat' E. F. modo & forma pzed' ex malitia sua pzerogitata voluntarie felonice & proditorie interfecit & murdabit contra pacem, &c. & quod quidam L. M. de A. pzed' ante ppositionem pzed' p pzetat' A. B. sic ut pzetatur fact' videlicet septimo die Junii Anno supradicto eundem A. B. apud



A. pzed' in Com' pzed' ad pzeditionem pzed' in forma pzed' perpetrando felonice consuluit excitabit & procurabit contra pacem, &c.

Against a Wife for Murdering her Husband.

Essex. H. J. W. R., &c. quod A. B. nup de, &c. Vidua nup G. B. de A. in Com' pzed' Gen' Deum pze oculis suis non habens sed instigatione diabolica seducta contra debitum Matrimonii sui vinculum ac contra amorem quem Eadem A. B. erga pzedat' G. B. nup virum suum gerere deberet ex malicia sua pzedogitat' decimo die Junii anno regni, &c. apud A. pzed' in Com' pzed' vi & armis in & sup pzedat' G. B. virum suum in pace Dei & vigi Domini Regis adtunc & ibidem erissen' insultum fecit, &c. (as in the former.)

Misprision of Treason.

**M**isprision, from the French Word (*Mepri*) signifieth, in our Law, Neglect, Negligence or Contempt, and is, when one knoweth that another hath committed, or is about to commit Treason or Felony, but was not consenting thereunto, and does not discover it to the King or his Council, or to some Magistrates, but conceals the Offence, so making a light Account of such capital Offences.

The Punishment of Misprision of Treason, is a perpetual Imprisonment, Forfeiture of his Goods and Chattels for ever, and the Profits of his Lands, during his Life, to the King.

But for Misprision of Felony, the Punishment is only Fine and Imprisonment by the Justices before whom he is attainted. *Hale's P. C.* 128, 129.

The King may cause one that hath committed Treason or Felony to be indicted only of Misprision;

What is Misprision of Treason. /  
Forfeiture in Misprision of Treason.

son; for every Treason or Felony doth include Misprision.

Compounding of Felony, is also Misprision of Felony at the least, if it be not Felony.

Misprision of Treason must be a bare Knowledge only; for if the Person consents to the Treason, he is a Traitor; and therefore the Party ought, as soon as may be, to reveal it to some Magistrate.

#### Cases of it.

If one knows upon what Design Persons are to meet, and accordingly meets with them, and hears them discourse of Treason, tho' he says nothing himself, or doth any Act towards it, yet this is Treason; for 'tis more than a Concealment.

But if he does not know upon what Design they met, and he casually hears their Discourses, and says nothing, and never comes again to their Consultations, this Concealment is only Misprision of Treason; but if he comes into their Company again, and hears their Discourses, and then conceals it, this is High Treason, for it sheweth his Approbation of their Designs: And this was the Case of Sir *Everard Digby* in the Gunpowder Treason Plot: And therefore the safest Way in these Cases, is to discover the Treason to some Magistrate; for if to a Person who hath not Authority to take an Examination, it may be a Question whether such a Discovery will acquit him from Misprision of Treason. *Kelynge 22.*

## Treasurers of the County Stock.

**T**HE two Treasurers of the County Stock for Relief of the poor maimed Soldiers and Mariners, Governours of *Bridewell*, and Collectors for the Prisoners in the Common Gaol, are to be chosen by the Majority of the Justices of Peace at the Quarter-Sessions next after *Easter*, and not elsewhere. So also the Treasurer for the Relief of the Prisoners in the King's Bench and Marshalsea, is to be chosen by the Majority of the Justices of Peace at the same Quarter-Sessions, and not elsewhere, and is to continue but for one Year, and then at the next *Easter* Sessions to give up his Account to his Successor, within Ten Days after the Sessions; by Stat. 43 *Eliz. c. 3.*

The Collector for the Money for the Relief of the Prisoners in the Common Gaol, is to be chosen by the Justices in Quarter-Sessions, and not elsewhere, and may be longer than a Year in his Office; by Statute 14 *El. c. 5.* where to be chosen, &c.

And if he refuse the Office, or having accepted it refuse to give Relief, or Account, the Justices in Sessions may fine him, but not under Three Pounds, to be levied by Distress, &c. by Warrant of two Justices, to be appointed by the rest at Quarter-Sessions; by 43 *El. c. 3.*

The Money is usually collected by the Church-wardens of every Parish in the County, who are to pay it over to the High Constables, Ten Days before every Quarter-Sessions; and the High Constables are at the Sessions to pay the two Treasurers the Money collected for maimed Soldiers, but that collected for Gaols is to be paid quarterly to the Lord Chief Justice and Knight Marshal, in such Sums as the Justices of Peace shall think fit. How the Money is to be collected, &c.

In Default of Payment of the Gaol-Money, the High Constable forfeits 20s. every Time, and 40s. for the maimed Soldiers Money.

If the Default is in the Church-wardens and Petty Constables, then for Gaol-Money they forfeit 10s. and for Soldiers Money 20s. each Time, which Forfeitures are to be levied by the Treasurer, by Distress and Sale of the Goods of the Defaulter.

Trial



## Trial. See Jurors.

**R**egularly Indictments must be found in the proper County where the Offence was committed, and the Trial must be by Jurors of that County, unless it be otherwise provided by Statute, as by 1 & 2 P. & M. c. 4.

Trial of Indictment where one is struck in one County, and dies in another.

But by Stat. 2 & 3 E. 6. c. 24. where one is feloniously stricken or poisoned in one County, and dieth of that Stroke or Poisoning in any other County, the Offender may be tried thereupon in all Points, as if such Stroke or Poisoning had all happened in one and the same County.

Also an Appeal may be so prosecuted as well against the Principal as Accessary, as well by Trial by a Jury as otherwise.

Per medietatem linguae, but not in Treason.

The Trial of an Alien who lives here under the Protection of our Laws, in Petty Treason, Murder, or Felony, shall be (*per medietatem linguae*), but not in High Treason. 1 & 2 P. & M.

It must be on the Prayer of the Prisoner.

But such a Trial *per medietatem linguae*, is not be allowed *ex officio* or *ex debito Justitiae*, but at the Prayer of the Offender; for if he doth not desire it, it is to be at Common Law, and by a Jury of *Englishmen*. Dyer 114. b.

If a Man commits Treason in Ireland, he may be tried here, and this was *O Rook's Case*. 1 And. 362.

Nobleswomen tried as Peers.

By Stat. of 20 H. c. 19. Trial of Peers for Treason or Felony, shall be as Noblemen Peers of the Realm and not otherwise.

Murders, &c. on the Sea, to be tried in the Realm.

By Stat. 28 H. 8. c. 13. Murder, Robberies, Piracies, and all other capital Offences committed on the Sea, or any other Place where the Admiral pretends Jurisdiction, shall be tried in such Counties within the Realm as shall be appointed by the King's Commission, in like manner as if the same had been done at Land.

By Stat. 33 H. 8. it is enacted that if a Person is examined by three of the King's Counsel upon Treason, Murder, &c. and confesseth it, or is suspected by the Counsel to be Guilty, in such Case the King by a Special Commission may have the Offender tried in any Place. 33 H. 8. c. 23. 1 And. 194.

One *Grevil* was examined before the Council, as Accessary to a Murder in *Warwickshire*, and it was adjudged that he should be tried there because he was examined as an Accessary, and not for the Murder it self. 1 And. 194.

Though in Cases of Treason, Misprision of Treason, and Felony, Noblemen as well as Commoners are to be tried *per Pares*, *Magna Charta* c. 29. yet in Riots, Routs, unlawful Assemblies, and such like, the Nobility shall be tried by a Jury of Commoners. *Lamb.* 539.

All foreign Pleas, triable by Jury, and pleaded by any indicted of Treason, Murder, or Felony, shall be tried in the County where the Party is arraigned, and by Jurors of that County. 22 H. 8. c. 14. 35 H. 8. cap. 2.

He who is no Lord of Parliament, being arraigned for Treason or Felony, shall be tried by Knights and others, and not by Lords of Parliament. So shall Bishops, Judges, &c. by Reason that they are Lords of Parliament by their Office, and not in respect of their Birth; so of Lord's Sons in their Father's Lifetime. 1 Cro. 110. b. Nu. 6. *Stamf.* 143. a.

Crimes (by the Law of England) committed in Scotland by Persons flying into England, and apprehended in Northumberland, &c. upon Examination and Proof before four Justices of Peace, may be remanded into Scotland by their Warrants under Seal, in order to be tried. 7 Jac. 1.

Trial of Felony, by a King's Servant conspiring the King's (or Lord's, &c.) Death, is by a Jury of the Check-Roll before the Steward, Treasurer, or Controller of the King's House.

In some Cases the Justices may convict the Offender by the Examination of Witnesses, as on the Stat. 33 H. 8. c. 1. for counterfeit Letters and false Tokens, and upon the Stat. 21 H. 7. c. 17. for taking Hawks Eggs and Swan's Eggs; so on the Stat. 43 El. c. 6.

If the Prisoner will demur in Law upon the Evidence, the Justices ought to record it, that it may be argued. *Fitz. Emdit.* 27.

Felons for Forgery by 5 El. c. 14. after a former Conviction, cannot be tried by Justices of Peace. The like Law (as it seems) of a Servant taking his Master's Goods after his Death, because they cannot take Notice of his Default in the King's Bench. 33 H. 6. c. 1. So likewise for imbezilling the Records in any Court at Westminster. 8 H. 6. c. 12. nor of such as are indicted of Felony before the Coroners, Justices of Gaol-Delivery, and of Oyer and Terminer.

A Scotchman shall be tried by a Jury of Englishmen, and not by an Enquest *de medietate lingua*, and this at Common Law, for he is reputed a Subject, and not an Alien. *Dyer* 304.

You

Cannot indict and try the same Sessions, unless by Consent of Parties, unless by Consent of Parties, or in Cases capital.

Lord Sanchai's Case.

You cannot indict and try the same Sessions, unless by Consent of Parties, unless in Cases capital. *Fones's Case*. 379. *Cro. Car.* 438. 448. 2 *Roll. Abr.* 625. 1 *Sid.* 99, 335. *Co. 3 Inst.* 164. 2 *Cro.* 404. *Dyer* 56. *Sid.* 335. *Bamford's Case*. *Hill. 11 Car. 1.*

The Lord Sanchai at Westminster in Middlesex, procured R. C. to kill J. T. R. C. with J. J. killed J. T. in London. R. C. and J. J. were tried as Principals, in Term-Time in London, and convicted; and the Lord Sanchai, as Accessary, was tried in B. R. in Westminster, upon 2 & 3 E. 6. c. 24. *Trin. 10 Jac. 1. Co. Lit. 9. f. 117. a.* Lord Sanchai's Case.

If a Man be feloniously Stricken or Poisoned in one County, and dies in another County, the Indictment and Trial must be in the County where the Death doth happen. *Co. 3 Inst. p. 48. 49.* But if the Acts which make up a Felony be committed in two Counties, this is not holpen by any Statute yet made. *Co. 3 Inst. 73.*

Where the Offender may be indicted and tried the same Day.

The Defendant was indicted and tried the same Sessions for a Barratry, and was convicted and instantly fined 40*l.* and committed *quousque*, &c. A *Certiorari* was brought, and the Proceedings removed, and a *Habeas Corpus*, and the Party brought up, who would have discharged himself by Exceptions to the Indictment; but resolved that he could not, because Judgment being given, he must bring his Writ of Error, which he did, and assigned for Error that he ought not to have been tried the same Sessions, but the next; but not allowed, for the Party being present may be tried as well the same Day as at another Time. And presently after Conviction, the Justices of Peace may impose a Fine, and commit to Prison till the Fine be paid. *Trin. 14 Jac. 1. Cro. Jac. p. 404. Rice ver. Regem.* With this Judgment agrees *Co. 4 Inst. p. 164. Co. 2 Inst. 568. Term. Hill. 14 & 15 Car. 2. B. R. Sid. Rep. 1. p. 99. Rex ver. Sadler.* But it was the Opinion of the Court that Justices of Peace cannot hear and determine the same Day, unless by Consent of Parties. *Pasch. 19 Car. 2. B. R. Sid. 1. p. 334.* The King against Brown, where Brown was indicted of Barretty before the Justices of Peace, and tried the same Day, and Judgment against him. Upon a Writ of Error the Judgment was reversed. And the Court after considering it, declared that Justices of Oyer and Terminer, as well as of Gaol-Delivery, might try the same Day, without Consent of Parties; but Justices of Peace cannot hear and determine the same Day, unless it be in capital



pital Cases where the Offender is in Custody : And they reversed the Judgment, and so the Practice is at this Day.

If one break a House in the Night, and steal Goods of several Men, and be indicted for that Burglary, and stealing the Goods of one of the Men, and be acquitted, he cannot be afterwards tried for the Burglary, but may for the Felony for stealing the Goods of the other Men. By the Opinion of Chief Justice Hyde and Bridgeman, Judge Kelynge and Wyld, 20 April 16. Car. 2. at Newgate-Sessions. *Kelynge Rep.* 30. *William Turner's Case*, p. 52. Same Point in *Jones and Beers's Case*.

As for the Trial and Conviction of Offenders before one or more Justices of Peace, out of the General Sessions, which is appointed and authorized by diverse Statutes, it must be according to the said Statutes, and not otherwise. Sometimes it may be before one, sometimes it cannot be before less than two Justices of Peace, sometimes it may be out of any Sessions, sometimes it must be at a private Sessions, sometimes it is by the Justices own View or Hearing, sometimes it cannot be done but by other Proof. But where the Statute doth not direct the Way, but says Justices shall hear and determine, and says not how or where, as 26 H. 6. c. 10. 5 EL. c. 9. there it must be by the ordinary Way, which is by Indictment. And so it may be also if the Justice please, where it may be done another way.

Sometimes the Statutes speak of Proof, and then it must be by Proof of Witnesses only ; sometimes it is by Examination and Proof. Sometimes the Conviction is to be by two Witnesses or Confession, sometimes by Witnesses or View, sometimes by View or Hearing only. Sometimes by two Witnesses, View or Confession, sometimes by one Witness View or Confession, sometimes by one Witness or View, sometimes by one Witness or Confession, sometimes by View or Information, sometimes by Proof of one Witness, sometimes by Proof of two Witnesses. In all Cases the Justices ought carefully and heedfully to pursue the Direction of the Statute.

And in all Cases it is of common Right, that the Offender be heard, or at least summoned, and make Default, before he can be legally convicted. And the Justice ought to make and keep by him a Record of all the Proceedings, especially if there be a Commitment.

Trophy

## Trophy-Money.

No Trophy-Money to be raised till the Quarter-Sessions have allowed last Accounts.

**T**HE Lieutenant shall not issue out any Warrants for levying Trophy-Money, till the Justices of Peace, or the major Part of them at their Quarter-Sessions, shall have examined, stated, and allowed the Accounts of the Trophy-Money last raised, levied, and collected, for any preceding Year, and certified such Examination of the said Accounts, under the Hands and Seals of three or more of them, to the respective Lieutenants or their Deputies. Stat. 12 Ann. c. 10. 12 Ann. c. 8.

## Vagrants, Vagabonds, Rogues, &c.

### Vide House of Correction.

Statutes about Vagrants. &c.

**T**HE Statutes which relate to Vagrants, Vagabonds, Rogues, &c. are 39 El. c. 4. 17. 43 El. c. 2. 1 Fac. 1. c. 7. 21 Fac. 1. c. 28. 7 Fac. 1. c. 4. 3 El. c. 4. 13 & 14 Car. 2. c. 12. 11 & 12 W. 3. c. 18. 1 Ann. c. 13. 5 Ann. c. 32. 12 Ann. c. 23. 6 Geo. 1. c. 19.

And those who have a mind to read what the Law-Books speak more fully concerning them, may consult *Jenkins's Rep.* 318. 2 *Bulst.* 251. & 358. 2 *Cro.* 377. *Jenkins's Rep.* 316. pl. 16. *Stile's Rep.* 168. The Parishes of *Hardington* and *Brisly.* 2 *Roll's Rep.* 172. *Rowver.* *Hollinsworth.*

But some of these Statutes being repealed wholly, and others in Part, by Stat. 12 Ann. c. 23. I shall first mention some Parts of the old Statutes, which still remain in Force, and then treat of the said Statute of 12 Ann. c. 23. which is now as it were the Standard of the Laws on that Head, at this Day.

Who a Vagrant is.

A Vagrant in our Law, is one who wanders about without a lawful Passport, having no Place of legal Settlement.

A Va-

A Vagabond, *Vagabundus, qui errat per mundum*, is one Who a Vagabond who without a lawful Passport wanders about from his Place of legal Settlement, and liveth idly and loitering.

A Rogue, *qui ostiatim rogat*, is an idle Beggar, wandering from Place to Place, without a lawful Passport.

A Beggar, *mendicus, quasi manu dicens. Egenus silentio* Who a Beggar. *manum extendit.*

Poor Persons appointed to ask Relief in the Parish where they dwell by the Overseers thereof; if they shall beg in the Highways, though in their own Parish, are not to be sent to the Place of their Birth, or last Dwelling, but the House of Correction. *Lamb. 427.*

Rogues are not to be sent to the House of Correction, but by Passes to the Place of their Birth, or to the Parish where last legally settled; and if those cannot be known, then to the Place he passed through last, without being punished; and if that cannot be known, then to the House of Correction. *2 Bulst. 357.*

Rogues may not be sent by a general Passport, but from Parish to Parish.

No Child under the Age of Seven Years, by 12 *Ann.* under 14 Years old, shall be adjudged a Rogue, within the Stat. 39 *El. c. 4.* But such Children being Vagrant, must be sent to and placed with the Father and if he be dead, then with the Mother, where she was born or last dwelt, by the Space of One Year. And such Children once thus settled or placed, must there remain, and not be sent thence to the Place of their Birth, although after the Parents die or run away, or that the said Children grow above Seven Years of Age.

The Wife being a Vagrant Rogue must be sent to her Husband, though he be but a Servant in another Town. And the Wife to her Husband.

Before the Stat. of 12 *Ann. c. 23.* one who had gained a Settlement, and afterwards became a Vagrant, should have been sent to the Place of his Birth, but then he might have been sent from thence to the Place of his last legal Settlement, according to 43 *El. c. 2. Salk. 526.*

By Stat. 7 *Fac. 1. c. 4.* Part whereof is not repealed, there shall be an House of Correction provided in every Shire, to set Rogues and other idle People to work.

The Justices in Sessions, shall from Time to Time appoint a Governor for the said House, who shall have Power to set such Rogues and idle People to work,



and to punish them by moderate Whipping, or putting Fetters or Gyves on them; which Rogues and idle Persons shall not be chargeable to the Country, nor have other Allowance than what they shall deserve by their own Labour.

The Governours of the Houses of Correction, shall have such a Sum of Money yearly as shall be thought fit by the more Part of the Justices of Peace in Sessions; the same to be paid quarterly before-hand, by the Treasurers of the County, the Governours giving Security for their Continuance in the said Service.

If the said Governours shall not every Quarter-Sessions yield to the said Justices a true Account of all such Persons as shall be committed to their Custody; or if they suffer any within their Charge to escape, or be troublesome to the County, by going abroad, or otherwise, they shall incur what Fine the Justices in Sessions shall impose on them. The Fines to be paid to the Treasurers of the County, and by them to be accounted for.

How Constables may reimburse themselves their Charge.

By Stat. 13 & 14 Car. 2. c. 12. by 12 Ann. c. 18. made perpetual, Constables, Headboroughs, and Tithingmen, out of Purse, for conveying Vagabonds, &c. to Houses of Correction, or Work-houses, they the Church-wardens and Overseers of the Poor, and other Inhabitants in the Parish, may tax all chargeable by 43 El. c. 2. which Rate being confirmed under Hand and Seal, by two Justices of Peace, the said Constables, &c. by Warrant under Hand and Seal of two Justices, may levy it by Distress and Sale of Goods.

Rogues may be transported.

In the same Act there is a Clause enacting, that Justices of Peace in their Quarter-Sessions, may cause to be transported Rogues, &c. duly convicted and adjudged incorrigible, to the *English* Plantations beyond Sea.

One Justice of Peace may grant a Licence to Soldiers, Mariners, or Seafaring Men, to travel Home, and they shall not be deemed Vagrants.

One Justice may licence Labourers, &c. in Harvest.

Any one Justice of Peace may licence Labourers in Hay-time and Harvest, to pass from one County to another to work, but not to wander or beg. Per Stat. 5 El. c. 4.

Any two Justices of Peace may make a Testimonial to Serving-Men (or other Servants) departing from their Masters; but they must not wander up and down idly, nor beg.

None may beg but by Order of the Overseers.

None may be suffered to take Relief at any Man's Door, though within his own Parish, unless it be by Order

Order of the Overseers. Neither may any be suffered to beg by the Highway, though in their own Parish. If a Man gives Alms at his Door, unless to such Poor who are licenced to beg by the Overseers, he forfeits 10s.

By Stat. 2 Ann. c. 6. lewd and disorderly Servants, Rogues, &c. Rogues, Vagabonds, and sturdy Beggars (not being may be sent Felons) by 39 El. c. 17. may be taken up and sent in- to Sea. to the Sea-Service of his Majesty.

I shall now proceed to the Stat. 12 Ann. c. 23. which reducing the Laws relating to Vagrant, Vagabonds, and Rogues, into one Act of Parliament, it will be proper to give you an Abstract of it, and conclude with proper Precedents suiting every Branch thereof, and some Law Cases on this Subject.

By Stat. 12 Ann. c. 23. it is enacted that all Persons pretending to be Patent-Gatherers or Collectors for Prisons, Gaols, or Hospitals, and wandering Abroad for that Purpose; all Fencers, Bear-wards, common Players of Interludes, Minstrels, Juglers; all Persons pretending to be Gypsies, or wandering, in the Habit or Form of counterfeit Egyptians, or pretending Skill in Physiognomy, Palmestry, or like crafty Science, or pretending to tell Fortunes, or like fantastical Imaginations, or using any subtil Craft or unlawful Games or Plays; all Persons able in Body, who run away and leave their Wives or Children to the Parish, and not having wherewith otherwise to maintain themselves, use loitring, and refuse to work for the usual and common Wages; and all other idle Persons wandring Abroad and begging (except Soldiers, Mariners, or Seafaring Men licenced by some Testimonial or Writing under the Hand and Seal of some Justice of Peace, setting down the Time and Place of their Landing, and the Place to which they are to pass, and limiting the Time for their Passage while they continue in the direct Way to the Place to which they are to pass, and during the Time so limited) shall be deemed Rogues and Vagabonds.

Who are  
Rogues and  
Vagabonds.

If any Person by this Act declared to be a Vagabond, shall be found wandring and begging, &c. in any other m. y any Parish, the Constable, &c. may apprehend them apprehend and convey them to some neighbouring Justice. And wandring if the Constable, &c. shall not use his best Endeavours Beggars. to apprehend such Vagabond, it shall be deemed a Neglect of Duty.

G g 2

And

And if any other Inhabitant, being charged by the Justice, &c. shall refuse his Endeavours to apprehend and deliver to the Constable, or to carry before some Justice any such Vagabond, and be found Guilty on Oath before the Justice, he shall forfeit 10s. to the Poor of the Parish. And if any Person shall apprehend such a Vagabond, and bring him before some Justice, the Justice may reward such Person, by ordering any Constable, &c. where any Rogue or Vagabond was found begging and passed unapprehended, to pay 2s. to the Person apprehending him; which if the Constable refuse to pay, such Justice may by Warrant levy 20s. by Distress and Sale of such Constable's Goods, and thereout allow the said 2s. and such other Recompence as he shall think fit.

Justices at  
meeting give  
out Warrants  
for a general  
Privy Search.

Any two or more Justices, some convenient Time before their Quarter-Sessions, shall meet in their respective Divisions, and by their Warrant command the Constables of every Hundred, &c. (who shall be assisted with sufficient Men) make a general privy Search in one Night, through their several Limits, for apprehending Vagabonds, and to cause such as they find to be brought before any Justice of the same Division.

Rogues taken  
up to be exa-  
mined, &c.

Persons so apprehended and brought before a Justice, are to be thoroughly examined, as well by the Oath and Examination of the Person apprehended, as of others, or by any other Means, of the Condition of the Person, and of the Place of his Abode or Birth, and cause it to be put down in Writing, and signed by the Persons so examined, and transmitted to the next Quarter-Sessions, there to be filed on Record. And if it appear such Person hath any legal Settlement, they shall be sent thither in such Manner as by the Laws other Persons likely to be chargeable to the Parish are to be sent; and if it cannot be found that he hath gained a legal Settlement since his Birth, then he shall be sent by a Pass (directed to the Constable, &c. where apprehended) taking Notice where and for what Cause he was apprehended; and whither, and in what Time he is to pass to his Place of Abode. Or if he be under the Age of Fourteen Years, and have Father or Mother, to the Place of their Abode; but if that cannot be known, then to the Parish or Town where he was last found begging, &c. and passed unapprehended, and there to be delivered to the Constable, &c. The Pass is to be in this Form, or to the Effect following:

And sent by  
Pass.

To



To the Constable of, &c.

Midd. ff. **W** Hereas A. B. being, as he informs me, The Form of  
about the Age of Years, was the Pass.

apprehended in the Parish of Enfield, wandring and begging there, and brought before me J. S. one of his Majesty's Justices of Peace for this County: And upon Examination of the said A. B. and of C. D. taken before me, on Oath, it doth appear, that the said A. B. was born at Hampted in this County, or, in the County of, &c. or, that the said A. B. is under the Age of fourteen Years, and hath a Father living and abiding in the Parish of, &c. or, that he was found begging in the Parish of, &c. where he last pass'd through unapprehended, (as the Case is) and the Place of his Birth cannot be discovered. And it doth not appear to me that the said A. B. hath obtained any legal Settlement since his Birth. These are therefore to require you to convey the said A. B. in the next direct Way to the said Parish of Hampted, and there deliver him to the Constable, or other Officer of the same Parish, to be there provided for according to Law.

But if the Place of his Birth be out of the County where he was taken, then the Pass is to be thus.

ff. **T**O convey the said A. B. to the Parish of, &c. in the County of Bucks, that being the first Town in the next Precinct through which he ought to pass to the said Parish of, &c. to be thence conveyed on to the Parish of, &c. and I do hereby allow the Space of three Days for his passing to the said Parish.

If any Person who has a legal Settlement be found Beggar ordered wandring and begging and disordering himself, he, to be whipt, as well as a Vagabond, may by such Justice, before being sent by such Pass, be ordered to be openly whipp'd, until his or her Body be bloody, or be sent to the House of Correction and kept at hard Labour, at the Discretion of such Justice, and shall afterwards be sent away by such Pass, which the Constable, &c. shall see duly executed.

All such Persons apprehended on a general Privy Search, who, on Examination, shall appear to have committed Acts of Vagrancy, and to have no fixed Abode or Employment in the Place where apprehended,

Or sent to the House of Correction and whipt three Market-Days.

If he break out, he is guilty of Felony.

Must not be sent to a Place of Birth, if a Place of Settlement.

If he refuse to be examined, he shall be deem'd an incorrigible Rogue.

With the Pass the Justice must give to the Constable a Certificate, &c.

hended, altho' they may have acquired a legal Settlement subsequent to their Birth, and be sent to the Place of their Settlement; yet the Charges shall be born in the same manner as conveying other Rogues and Vagabonds is to be born; and the Justices, if they shall have Cause to judge any such Vagabond to be dangerous to the People, where taken, may cause him to be committed to the House of Correction, or County-Gaol, there to remain and be kept at hard Labour till the next Quarter-Sessions; and if the major Part of the Justices shall adjudge such Person a dangerous and incorrigible Rogue, they shall cause him to be whipt three Market-Days successively, and kept at hard Labour during such Time as they shall think fit; and if he shall, before the Time expired, break out and make his Escape, he shall, for such Offence, be guilty of Felony, to be tried in the County where such Offender shall be apprehended.

Where any Person shall be brought before a Justice as a Vagabond, such Justice shall not make a Pass for conveying him to the Place of his Birth, if it shall appear such Person hath any legal Settlement, on Pain of forfeiting 5*l.* for every such Offence.

Any Person apprehended as a Rogue or Vagabond, who shall refuse to be examined upon Oath, touching his Place of Birth, or last Settlement, or give a false or unsatisfactory Account thereof, shall be deemed as an incorrigible Rogue, and may be punished as such; of which Punishment the Justice shall inform him during his Examination.

The Justice who shall make any Pass or Order for the passing or conveying of any Rogue or Vagabond to the Place of his or her Birth, &c. shall, at the same Time, with such Pass, cause to be delivered to the Constable, &c. a Certificate, ascertaining how the Person is to be conveyed by Horse, Cart, or on Foot, and in what Time, and what Allowance, such Officer is to have for conveying such Person to the Place he is to pass him, in the Form, and to the Effect following, viz.

**W**Hereas by a Pass (reciting the Substance or Effect of the said Pass) I do hereby order and direct, that the said Person or Persons is or are to be conveyed on Foot (or in a Cart, or by Horse, &c.) to the said Parish

*or Town of Hampsted in three Days Time, for which the said Constable is to be allowed the Sum of Ten Shillings, and no more. Given under my Hand this Day, &c.*

The Constable, &c. who shall receive such Pass and Certificate, shall convey the Persons named therein, in such Manner and Time as by the Pass is directed, the next direct Way to the Place whither sent, if such Place be in the same County, Division, &c. keeping separate Quarter-Sessions; or if not in the same County, &c. then to the first Town of the County, &c. named in such Pass, and deliver them to the Constable, &c. with the Pass, taking a Receipt of such Delivery upon the Certificate, under the Hand of such Constable, &c. who is to receive the same, and sign such Receipt, and apply to a Justice of his proper County, &c. who shall cause such Rogue to be stripp'd and openly whipp'd, or sent to the House of Correction, and there kept at hard Labour for two or three Days, and after conveyed, with the former Pass, and a new Order and Certificate, in like Form as before, to be by the said Justice made, and so from one County, &c. to another, until brought to the Place whither first ordered to be sent, and there delivered to the Constable of the Place, who is to receive him with the Pass, and sign a Receipt of such Delivery.

How Constable must convey the Vagrants.

No Constable shall be obliged to receive any Persons by any Pass, unless it appear by the said Pass that the Persons, so ordered to be conveyed, have been whipp'd or sent to the House of Correction in the County, City, &c. thro' which they last pass'd, (except Women with Child, Soldiers wanting Subsistence, having lawful Certificates from their Officers, or Secretary at War, or such Persons as the Justices shall judge not able to undergo such Punishment,) which is to be certified in the said Pass.

Constable not obliged to receive Vagrant unless whipt.

Justices of Peace, at their Quarter-Sessions, are to appoint what Rates or Allowances per Mile, or otherwise, shall be made for passing or maintaining Vagrants, and make Orders, &c. for the more regular Proceeding therein in their Limits, which shall be observed by all other Justices, Constables, &c. in the same Limits.

ons to settle the Rates of passing Vagrants, &c.

The Justices, at their Quarter-Sessions, may, by such Ways and Means as Money for County-Gaols or may raise Mo-

How Justices may raise Money, &c.



Bridges may be raised, cause such Sums of Money to be raised within their respective Precincts for the passing and conveying Vagabonds, as shall be necessary; to be Quarterly paid to the Chief Constable of each Division, in such manner, as that such Constables may have a Quarterly Payment beforehand, who shall account twice a Year, or oftener, for the same, with the proper Treasurer.

High Constable may pay Petty Constables the Rates.

Any Petty Constables, &c. who shall bring to the Chief Constable any Certificate given him by any Justice, ascertaining how and for what Rates he shall be required to convey any Vagabonds, together with a Receipt from the Constable to whom the Person was delivered, the Chief Constable shall pay him the Rates ascertained in such Certificate, and no more, taking his Receipt, which the Chief Constable shall discount with the Treasurers of the County.

If Constable falsify a Certificate, forfeits 20 l.

And if such Petty Constable, &c. shall counterfeit such Certificate, &c. or alter any Sums, and not convey the Person thereby intended to be conveyed, he shall forfeit 20 l. above the Sum so fraudulently taken; one Moiety to the Poor of the Parish, the other to the Informer.

Justice may examine Constable on Oath.

The Justices may examine any Constable, &c. on Oath, Whether he did convey the Persons whom he was ordered to convey, by any Pass, and to whom delivered, and on his refusing to be sworn; or if it shall appear he hath neglected his Duty, he shall lose the Allowance, which by the Certificate he would otherwise have been intitled to.

How Parish ought to provide for Vagrants.

The Parish or Place, to which any Vagabonds shall be conveyed by Pass, shall employ in Work, or place in some Work-house or Alms-house, the Persons so conveyed to them, till they betake themselves to Service; and if they refuse to work, the Overseers may cause such Persons to be carried before some Justice, in order to be sent to the House of Correction to be kept to hard Labour.

If Neglect, must reimburse the other Parish's Charges.

And in case any Person shall not employ, but permit such Person to escape and wander again, and the said Person shall be afterwards taken up begging, &c. in any other Parish or County, any Justice where such Vagabond shall be again apprehended, may compute what Charge the County shall be put to by Passing, &c. such Vagabond; and the Money ascertained, the Justice may, by Warrant, order to be levied upon any of the Constables, &c. Goods, so making

Default;

Default; and if the Parish in Default be in another County, then the Warrant ascertaining the Charge may be brought to some Justice of Peace of the same County, who shall cause the same to be levied and paid for the Use of the County where the Charges were expended: And the Constable, on whom the Monies were so levied, may put the same in his Rates, and shall be allowed it by the Inhabitants; and the Justices of the County whither such Vagabond shall be conveyed, may, at their Quarter-Sessions, to which their Pass is to be transmitted, inquire of the Default of any Officer, or Person of any Parish, to whom such Vagabond shall be brought, in permitting his Escape, and punish the Person offending according to the Merit of his Offence. And after, if such Person shall be found wandring again and begging, <sup>found begging</sup> <sup>again, must be</sup> <sup>sent to the</sup> <sup>House of Cor-</sup> <sup>rection.</sup> &c. the Justices, on Proof thereof, shall send him to the House of Correction, to be kept at hard Labour till the next Quarter-Sessions; and such Person not giving Security for his Behaviour for one Year, they may adjudge him a dangerous and incorrigible Rogue, and order him to be punished accordingly.

Persons apprehended and brought before a Justice, and found to have no Settlement since their Birth, and to have committed any of the Acts of Vagrancy in this Act mentioned, or to have used Begging for two Years last past, altho' they had formerly a Settlement, or to be a Rogue, &c. the Justices, instead of punishing or passing them away, may, by Order, commit such Persons to the Custody of him or them who procured such Apprehension; and on their Refusal, to the Power of any other Persons, Bodies Politick or Corporate, willing to receive them as Apprentices or Servants for seven Years, and no longer; who may detain, keep, employ, and set to work, either in this Realm, or in any his Majesty's Plantations, or *British* Factories beyond Seas, the Persons so committed to them during the seven Years. <sup>Beggar for two</sup> <sup>Years may be</sup> <sup>committed to</sup> <sup>those who ap-</sup> <sup>prehend them,</sup> <sup>and be trans-</sup> <sup>ported.</sup>

But no such Person shall be transported till his Master shall become bound by Recognizance in the Penalty of 40 *l.* that the Person shall be sent to and employed in some of his Majesty's Plantations or *British* Factories, and supplied with Necessaries convenient, and at the End of seven Years discharged, and in the mean Time not to be sold to any Alien; which Recognizance any Justice may take and transmit to the next Quarter-Sessions, to be kept on Record.

Persons

Persons ag-  
grieved may  
appeal to  
Quarter-Sessi-  
ons.

Persons aggrieved may appeal to the next Quarter-Sessions of the County, where such Order was made, and shall not be sent away till such Quarter-Sessions, whose Determination shall be final; but may be kept in the House of Correction, if the Justices think fit.

Blind and  
Lame to be  
removed, &c.

Where any loose, idle and disorderly Persons, Blind, Lame, or pretending to be so, or with distorted Limbs, or pretending some bodily Infirmary, shall be found begging in the Streets, &c. Complaint being made by two or more Inhabitants of the Parish, Town, &c. to the Constable, &c. such Constable shall, with Speed, cause the said Persons to be removed; and if they refuse to be removed, or, being removed, shall offend a second Time, the Constable, &c. shall cause them to be stripped naked from the Shoulders to the Waste, and whipped till their Bodies be bloody: And if such Constable shall neglect to cause the same to be done, upon Oath, by two or more Witnesses, within twenty-four Hours, before one Justice, he shall forfeit 10s. to the Poor of the Parish, &c. by Warrant of the Justice, &c. to be levied by Distress, &c.

How a Luna-  
tick is to be  
ordered.

Any two Justices, where a Lunatick shall be found wandering, by Warrant under their Hands and Seals to the Constables, may cause such Person to be apprehended and kept lock'd up in such secure Place as the Justices shall, under their Hands and Seals, appoint, and (if they find it necessary) to be there chain'd, if the last Settlement of such Person be in the said County; and if such Settlement shall not be there, then he shall be sent to the Place of his last legal Settlement, (as Vagrants by this Act are directed to be sent) whipping excepted, and kept lock'd up, and the Charges of maintaining such Person during such Restraint, (which shall be only for such Time as the Lunacy shall continue) shall be paid, by Order of two or more Justices, out of the Estate of such Person, if he have any over and above what shall maintain his Wife and Children; and if he hath not such Estate, then it shall be paid by such Ways and Means as the Poor of the Parish, &c. are to be provided for. But this Act shall not extend to abridge the King's Prerogative, or Authority of the Lord Chancellor, &c. touching or concerning the Premises.



If any Master of a Ship, &c. shall bring into this Realm from Ireland, the Isle of Man, the Isles of Jersey, Guernsey or Scilly, or any of the foreign Plantations, any Rogue, &c. or any Person likely to live by Begging, being a Native of any of the said Islands or Plantations, and the Persons so brought shall be apprehended wandring and begging, &c. such Commander shall forfeit 5 l. for every Rogue, &c. so brought over, over and above such Sum as shall be necessary to defray the Charges any Constable, &c. shall be put to, by apprehending and reconveying back such Persons: And the Constable, &c. where any such Persons shall be found wandring, &c. may cause them to be apprehended and openly whipped, and after put on board any Ship, to be reconveyed and set on Shore in the same Island from whence brought, paying the Passage back of such Persons at so much *per Head* as the Justices at Quarter-Sessions shall appoint: And if the Constable makes it appear on Oath, what Expence he hath been put to on such Occasion, the Justices may direct Payment thereof, as also of the Penalty of 5 l. and on the Master's Refusal or Neglect to pay the same, may grant their Warrant to levy the same by Distress and Sale of the said Ship, or any Goods in her, whilst remaining in the Jurisdiction of such Justices; and if gone away, the Order may be removed by *Certiorari* into the Court of King's Bench, and there filed on Record; and being so filed, the Judges are to direct Process for staying and arresting the said Ship, until the Money mentioned in such Order, with Charges, shall be fully satisfied, or to award Process by levying the same by *Capias*, *Fieri Facias*, or *Elegit*, against the Master or Owners of the said Ship, as the Court shall think most proper.

The Master, &c. on shewing any probable Ground of Grievance by such Order, may traverse the same, giving Security in the Penalty of 50 l. to satisfy the Charges of such Traverse, if determined against him.

All Masters of Ships bound for Ireland, &c. shall, upon Warrant to them directed by a Justice of the County or Place where such Ship shall lie, take on board such Vagrants as shall be named in the said Warrant, and convey them to such Place in Ireland, &c. as such Ship shall be bound to arrive at; and the Constable, &c. who serves him with such Warrant, shall pay him such Rate *per Head* as the Justices, at their

their Quarter Sessions, shall appoint; and such Master shall, on the Back of the said Warrant, sign a Receipt for the Money so paid, and also for the Vagrants delivered; which Warrant, so indorsed, shall be produced to the Justice who signed the same, and on his Allowance thereof, the Money shall be repaid by the County, as by this Act the Money is to be paid for conveying Vagrants; and every Master refusing to receive on board or transport such Vagrants, or indorse and sign such Receipt, shall forfeit 5 l. to the Poor of the Parish, to be levied by Distress or Sale of the Ship, &c. by Warrant of any Justice of the County.

Constable neglecting his Duty, forfeits 20s.

Any Constable, &c. who shall fail of his Duty in apprehending Rogues, &c. or any Person who shall hinder the Execution of this Act, or rescue any Person apprehended, or be aiding in their Escape, and be convicted thereof, shall forfeit 20 l. to the Poor of the Parish, to be levied by Distress, &c.

The Act 39 Eliz. for punishing Rogues and Vagabonds, and the Act 1 Jac. 1. c. 7. for the Continuance and Explanation of the same, and so much of another Act made 7 Jac. 1. c. 4. for the Execution of divers Laws and Statutes heretofore made against Rogues, Vagabonds, &c. as relates to the Privy Search thereby directed to be made, shall be and are hereby repealed.

Exception of John Dutton.

This Act shall not extend to disinherit, prejudice or hinder the Heirs or Assigns of John Dutton of Dutton, late of the County of Chester, Esq; deceased, concerning any Liberty, &c. which they may lawfully use within that County Palatine of Chester, and the County of the City of Chester, by Reason of any ancient Charters, or by Prescription or lawful Usage, or other Title whatsoever.

By Stat. 6 Geo. 1. c. 19. the Justices of Peace within their respective Jurisdictions, may commit Vagrants, and other criminal Persons charged with small Offences, either to the Common Gaol or House of Correction, as they in their Judgment shall think proper.

As for the Exception in the Act relating to the Heirs and Assigns of John Dutton of Dutton in Chester, Esq; this is what History says of it.

Randal

Randal Blandeville, (not Glanville, as some would have it) Earl of Chester, was about the End of King Richard the First, suddenly besieged by the Welsh in the Castle of Ruthelent in Flintshire, where he then was; whereupon he presently sends to his Constable of Cheshire, one Roger Lacy, to hasten, with what Force he could, to his Relief: It happened to be on Midsummer Day, and a great Fair then held at Chester; whereupon Roger immediately got together a great lawless Mob of Fidlers, Players, Coblers, &c. and marches immediately towards the Earl; and the Welsh perceiving a great Multitude approaching, raised the Siege and fled.

The Earl being thus freed, comes back with his Constable to Chester, and in Memory of this Piece of Service, by a Charter, grants to Roger Lacy, and his Heirs, Power over all the Fidlers, Letchers, Whores and Shoemakers in Chester.

About the latter End of the Reign of King John, or Beginning of King Henry the Third, Roger Lacy being dead, his Son John, by Deed, grants to one Hugh Dutton his Steward, and to his Heirs, the Rule and Authority over all the Letchers and Whores in all Cheshire, in these Words: *Sciart presentes & futuri quod Ego Johannes Constabularius Cestrie dedi & concessi Et hac presenti Charta mea confirmavi Hugoni de Dutton & Heredibus suis Magistratum Omnium Leccatorum & Meretricum totius Cestrie sic ut liberius illum Magistratum teneo de Comite salvo Jure meo mihi & Heredibus meis His Testibus, &c.*

Under this Grant, by ancient constant Custom, the Heirs of Dutton have and do claim and enjoy a Privilege and Authority over all the common Fidlers and Minstrels in Chester, and in all Cheshire, to this Day, and, in Memory thereof, keep a yearly Court at Chester on Midsummer or St. John's Day, being Chester Fair, and, in a solemn Manner, ride, attended through the City to St. John's Church, with all the Fidlers of the whole County playing before them, and then at the Court renew their Licences yearly. For to this Purpose a Court is also then held, where all the Fidlers and Minstrels of the City and County are to attend and play before the Lord of Dutton; and none ought to use the Trade or Employment of a Minstrel or Fidler, either within the City of Chester or County of Cheshire, but by an Order and Licence of that Court, under the Hand and Seal of the said Lord, or his Steward.

In



In 14 H. 7. a *Quo Warranto* was brought against Laurence Dutton of Dutton, Esq; to shew why he claimed that all Fiddlers and Minstrels of *Cheshire* and the City of *Chester*, should meet before him at the said City yearly on St. *John Baptist's* Day, each Fidler to give him four Bottles of Wine and a Launce, and every Minstrel to pay him 4 d. and every Whore in *Cheshire* and the City of *Chester*, *Officium suum exercente*, 4 d. to which he pleaded Prescription.

And whereas by Stat. 39 *El. c. 4.* Fiddlers and Minstrels are declared to be Rogues, yet by a special Proviso in that Statute, and in the Statute of 1 *Jas. 1. c. 7.* an Exception is made of those in *Chester* and *Cheshire*, who should be licensed by *John Dutton* of Dutton, his Heirs or Assigns; and those Statutes being repealed by this of 12 *Ann. c. 23.* therefore the Right of the said Dutton, his Heirs and Assigns, is saved by the Clause in this last mentioned Act, which is transcribed *verbatim* from the like Clauses in 39 *El. c. 4.* and 1 *Jas. 1. c. 7.* So that the Fiddlers and Minstrels of *Chester* and *Cheshire*, if licensed by the Heirs or Assigns of Dutton, are no Rogues or Vagabonds within the Act, tho' they wander, &c.

Tho' a Man have a certain Habitation, yet if he wander out of his own Parish begging, or otherwise misordering himself, he may be punished as a Vagrant. 2 *Roll. Rep. 172. Rex vers. Hollingsworth.*

Rogues must pursue their Testimonial, &c.

A Rogue who hath a Testimonial, if thro' his or her Default they do not pursue the Order appointed by the said Testimonial, they are *toties quoties* to be whipp'd as Rogues; and so is a Rogue who shall carry his own Passport without a Guide.

Case of a Vagrant.

*Eliz. B.* being a Wanderer, with three Children, born in three several Parishes, came with them to *D. in Com' Wigorn'* to her Sister, where she died, the three Children being there left. Per *Jones* and *Whitlock* Judges of Assize, the Children ought to be sent to and kept and provided for by the several Parishes where they were born, and not in the Parish where the Mother died. 2 *Bull. 351.* And accordingly an Order was made and signed by them, and the same delivered to the Clerk of the Assizes, to deliver the same to the Parties.

No one is to be put out of the Town where he dwelleth, nor to be sent to the Place of his Birth or Habitation, but only a Vagabond Rogue, such as wander abroad

abroad in the Country, and not such as are Vagrant, and begg in the same Town where they dwell. 2 Salk. 526.

The Manner of apprehending Rogues and Vagabonds, being particularly directed in the Act, it seems the Direction ought to be strictly pursued, as that it be done by Warrant or Charge from a Justice. It is true the Constable being an Officer at Common Law, may apprehend without such Warrant or Charge. But any other Inhabitant (in that Section mentioned) must, I take it, have an Authority from the Justice, &c. And note, Inhabitants after such Authority received, must obey it, under the Forfeiture of 10s. Yet a *Quare* may be made, Whether such Inhabitant, or the Constable are obliged to apprehend, or such a Forfeiture can be for not apprehending idle Persons, but only where such Person is seen to resort to some House to beg.

And therefore the Penalty of 20s. in Case of the Refusal or Delay of the Constable, &c. to pay the Reward of 2s. to the Person apprehending on Demand, seems only to be in those Cases where there is both a Wandring and Begging.

And note, that where corporal Punishments, as Whipping, &c. are left at the Justices Discretion, they would do well to be cautious in the Exercise of such Power; for Justices of Peace can have no Authority but what is given them by the plain Words of a Statute, which are to be strictly expounded, and in no Case by Implication or Construction in Favour of any Authority which is not warranted by the Common Law.

If an hired Servant falling Sick, be turned out of Doors by her Master, and she begs in her Passage from the Place where she was at Service, to the Place where she was born; adjudged no Begging to make a Vagrant. *Style's Rep.* 168.

*W. B.* was indicted at *Portsmouth*, for that he being an idle Person, did wander in that Town, selling Wares as a Petty Chapman; and upon a Demurrer to this Indictment, it was insisted to maintain it that a Petty Chapman is a Vagabond by the Statute 39 *El.* c. 4. It is true by the Statutes of 8 & 9 *W. 3.* c. 25. and 9 & 10 *W. 3.* c. 27. some Petty Chapman (*viz.*) such as are qualified by those Statutes, may follow that Occupation; but by a Clause in the said Statute of 9 & 10 *W. 3.* c. 27. they are not allowed to do it in Borough Towns or Corporations; so those Statutes do

Inhabitant cannot seize a Beggar without Authority of a Constable, &c.

Justices must be cautious of Whipping, &c.

Sick Servant turned off, no Vagrant.

At Common Law a Man might go where he would.

do not give them Liberty to trade in such Places; but adjudged a Vagabond *quatenus* such was not indictable, because at Common Law a Man might go where he would; but if he is an idle or loose Person, he might be taken up as a Vagrant, and bound to his Good Behaviour, and might be compelled to work by the Statute of Labourers. This Indictment was quashed. 2 Salk. Mod. Cases 240.

Whoever is able to work, but will not, and wanders abroad, not having wherewith to subsist but by their Labour, is a Rogue. Dalt. 308.

Who taxable for conveying Vagrants, &c.

Persons to be taxed for conveying Vagrants, &c. by 13 & 14 Car. 2. c. 12. are every Inhabitant of the Parish, viz. the Parson, Vicar, and all Occupiers of Houses, Lands, Tithes, and Woods; but a Landlord is not to be taxed in respect of his Rent. And this Tax or Rate must be confirmed under the Hands and Seals of two Justices.

If a Child be duly settled with Father or Mother, and they die or run away thence, it must there continue, and may not be sent to the Place of its Birth. Lamb. 207.

A Saying of the great Lord Chief Justice Hale.

The great Lord Chief Justice Hale, whose name will ever be remembered with Veneration, in the Preface to his Book concerning the Relief of the Poor, has this memorable Passage. "Indeed were there a clear Means practised for the employing poor Persons, it were an uncharitable Action to relieve them in a Course of Idleness; but when I do not know that there is such a Provision, I do not deny my Relief, because I know not whether without it he may not be starved with Hunger, and that without his own Default."

Case of a Vagrant.

A Vagrant Woman coming to *Shellingford* in *Berkshire*, was there delivered of a Child, and afterwards went to *Cockswel* in *Gloucestershire*, and left the Child there, and ran away. Two neighbouring Justices, on Complaint made, and on Examination, make an Order to remove the Child to *Shellingford*. It was objected to this Order, that it was not set forth or adjudged to be a Bastard Child, *sed non allocatur*. 2. Objection, No Adjudication of its being likely to become chargeable; but to this the Court said it is a necessary Consequence, because it was said to be but two Years old. As to the Statute 13 Car. 2. being born in a Parish doth not make a Settlement, if born in lawful Matrimony; for there it must follow the Settlement of the Father. And in this Case, being not said to be a Bastard



ward Child, and being upon Complaint, it therefore ought to follow the Parents. But the Court held this was a Settlement by Birth, till the Parents Place of Settlement could be discovered: Therefore the Order was confirmed, notwithstanding it did not say it was a Bastard Child. Adjudged *Pasch. 5 Ann. Reg.*

## Continuation of a Pass from one County to another.

To the Constable, &c.

**I** DO hereby order you to convey the above-named, or, within-named Vagrant to, &c. in the County of, &c. in order to his being further conveyed to, &c. according to the above-written Pass, and as the Law directs. Given, &c.

You may insert before the Word (convey) in the Pass, having first punished the Vagrant according to Law; but this is generally understood to be done by the Constables of Course, without any particular Direction.

A Licence under the Hand and Seal of a Justice of Peace, for Soldiers and Mariners, and Sea-faring Persons to travel.

To all Constables, Headboroughs, &c. in the County of, &c.

**Essex. ff.** **W** Hereas it appeareth unto me that A. B. 12 Ann. c. 23. Mariner, did on the 8th of Day of this Instant July, land at H. in this County, and is travelling towards M. in the County of B. I do therefore hereby licence him to pass the direct Way through this County, from H. aforesaid toward M. in the said County of B. that being the Place to which he desires to pass; and that you do not disturb or molest him in his said Passage, he demeaning himself orderly. This Licence to be in Force for the Space of Nine Days, within which Time he may travel thither. Given under my Hand and Seal, &c. this 9th Day of July, &c.

## A Lodging Warrant to search for Vagrants, &c.

12 Ann. c. 23. Midd. ff. **W**HEREAS the Suburbs of London and Places adjacent, are now and so have been for some Time past, infested with Rogues, Vagabonds, and sturdy Beggars, and other idle Persons, who can give no good Account of their Lives and Conversation, to the Danger of the Inhabitants, and contrary to the Laws and Statutes of this Realm: These are therefore in his Majesty's Name to charge and command you, that at all convenient Times hereafter, taking with you a sufficient Assistance, you do make diligent Search in the several Places aforesaid, and in all other suspected Places within your Limits and Jurisdiction, for all such Rogues, Vagabonds, and sturdy Beggars, and other suspected and idle Persons. And in case you find any such, that then you do apprehend them and bring them before us or some other of his Majesty's Justices of Peace for this County, to be examined and dealt with according to Law. Given, &c.

## A Warrant to Constables to make a general Privy Search for Vagabonds, &c.

To the High Constable of, &c.

12 Ann. c. 23. Midd. ff. **T**HESE are in his Majesty's Name to charge and command you, that you, together with the several Petty Constables and Tithingmen, within the several Parishes, &c. in your Hundred, taking proper and sufficient Assistance, do on, &c. next at Night, before the Quarter-Sessions, make a general Privy Search, within the several Towns, Parishes, and Hamlets in your said Hundred, for the finding and apprehending of Rogues, Vagabonds, and idle, and wandering Persons, and that you do cause such as you shall find to be brought forthwith before us, or some other of his Majesty's Justices of Peace for the said County, acting in the Division where taken, to be examin'd and punish'd according to Law, and that you likewise give an Account in Writing of what you shall do in the Premises. Given, &c.

A War-

A Warrant to levy 10 s. upon an Inhabitant, refusing to apprehend a Rogue, being lawfully charged.

To the Constable, &c.

Essex. ff. **W** Hereas A. B. an Inhabitant of the Parish 12 Ann. c. 23.  
of M. was duly and lawfully charged to apprehend a Rogue who resorted to the House of B. C. in the said Parish of, &c. and did beg there, but the said A. B. did refuse to apprehend the said Rogue, of which said Offence the said A. B. hath been lawfully convicted before me, by Reason whereof he hath forfeited 10 s. These are therefore to require you forthwith to levy the said Sum of 10 s. upon the Goods and Chattels of the said A. B. by Distresses and Sale thereof, rendering to him the Overplus, if such shall happen to be; and that you pay the said 10 s. to the Churchwardens or Overseers of the Poor of the said Parish of M. where the said Offence was committed, for the Use of the Poor thereof. And hereof fall not: Given, &c.

An Order for the Payment of 2 s. for taking a Rogue, &c.

To J. L. Headborough of the Parish of, &c.

Essex. ff. **W** Hereas it appeareth unto me that A. B. a 12 Ann. c. 23.  
Vagrant, did wander and beg in the Parish of L. in the County of, &c. and passed through the said Parish unapprehended, and afterwards was taken in the Parish of C. in this County by C. D. an Inhabitant of the said Parish of C. wandering and begging there, and was by him brought before me J. S. Esq; one of his Majesty's Justices of Peace for the said County, in order to be examined and punished as by Law he ought. Now I do hereby order the Headborough of the said Parish of L. through which the said A. B. passed unapprehended as aforesaid, to pay unto the said C. D. who did apprehend him, the Sum of 2 s. on Demand. Given under my Hand and Seal, &c.

H h a

A Wat-



A Warrant to levy 20 s. on the Headborough  
refusing to pay 2 s.

To the Constable, &c.

12 Ann. c. 23. Essex. ff. **W** Hereas by an Order made under my Hand and Seal, I did lately appoint A. C. the Headborough of the Parish of L. in the County of, &c. to pay unto C. D. the Sum of 2 s. for apprehending A. B. a Vagrant, in the Parish of C. in this County, where he was taken by the said C. D. wandering and begging, who was also before that Time wandering and begging in the Parish of L. through which he passed unapprehended, which said 2 s. being lawfully demanded of the said A. C. the Headborough of the said Parish of L. he refused to pay the same: These are therefore to require you forthwith to levy the Sum of 20 s. upon the Goods and Chattels of the said A. C. by Distress and Sale thereof, out of which I do hereby allow unto the said C. D. who apprehended the said Vagrant, the Sum of 2 s. and likewise 10 s. more for his Trouble, Time, and Expences, which said respective Sums you are forthwith to pay unto him, and to render the Overplus to the said A. C. And hereof fail not. Given under my Hand and Seal, &c.

A Warrant to levy 20 s. for not apprehending a Rogue.

To the Constable, &c.

12 Ann. c. 23. Essex. ff. **W** Hereas it has been duly proved before me J. F. Esq; one of his Majesty's Justices of Peace for this County, that several Persons were lately wandering and begging in the Parish of L. in the County of, &c. and that due Notice thereof was given to A. B. then Headborough of the said Parish, but that he neglected or refused to apprehend the said wandering Beggars, and to carry them before the next Justice of Peace, as by Law he ought; by Reason whereof he hath forfeited the Sum of 20 s. These are therefore to require you to levy the said Sum of 20 s. up-  
on

on the Goods and Chattels of the said A. B. by Distress and Sale thereof, rendering to him the Overplus, if any such there be, and that you pay the same to the Church-wardens or Overseers of the Poor of the Parish of L. aforesaid, where the said Offence was committed, for the Use of the Poor of that Parish. Given, &c.

### The Examination of a Vagrant.

**T**HE Examination of A. B. a Vagrant, and of C. D. and E. F. touching his Vagrancy and Settlement, taken on Oath before us J. F. and J. S. Esqs; two of his Majesty's Justices, &c. this, &c.

The Examinant A. B. (being this Day brought before us 12 Ann. c. 23. for wandring, begging, and committing other Acts of Vagrancy in, &c.) says on his Oath, that the Place of his last Abode was at, &c. but that he did not live there as a hired Servant, or in any other Manner to make him a Parishioner or gain a Settlement there, and being out of Employment, he was forced to wander to, &c. and from thence he came to, &c. the Place which he is informed, is the Place of his Birth; and further saith not. And the said C. D. and E. F. both say that they know the said A. B. and that he is an idle Fellow, and that they are assured the said A. B. was born at, &c. aforesaid, they living in the said Parish at the Time of his Birth, and well knew his Parents; but whether he hath acquired any legal Settlement at any other Place since his Birth, they know not.

### A Warrant to a Constable to whip a Vagabond wandring, &c. having a Settlement.

Essex. ff. **W** Hereas A. B. has been this Day apprehended and brought before me J. S. Esq; one of his Majesty's Justices, &c. by, &c. for wandring and begging in the Parish of, &c. in this County, having obtained a legal Settlement in, &c. contrary to the Statute in that Case made: These are therefore to command you to strip or cause to be stripped, the said A. B. naked from the Waste upwards, and to bind him to the common Whipping Post in your Parish, and there whip him, or cause him to be publicly whipped, and afterwards to remove and concey the said A. B. to, &c. (as supra the Pass). Given. &c. 12 Ann. c. 23.

H h 3

A Mit-

**A Mittimus to the House of Correction of an idle Person, who would run away, and will not work to maintain his Family; (and if he run away and leave his Family, then he is an incorrigible Rogue).**

To the Constable, &c.

7 Jac. 1. c. 4.

**Essex. ff.** **F**Orasmuch as it hath been duly proved before us upon Oath, that A. B. of the Parish of C. in this County, being able to work, (and thereby relieve his Family) hath threatened to run away and leave his said Family upon the Parish of C. aforesaid: These are therefore in his Majesty's Name, to command you the said Constable, &c. (unless he do put in sufficient Sureties for the Discharge of the said Parish) that you, or some of you do apprehend the said A. B. and him safely convey to the House of Correction for this County, and there deliver him to the Keeper of the same (together with this Precept): Commanding also you the said Keeper to receive him into the said House, and there deal with him and detain him as a sturdy and wandering Rogue, and to be delivered at the next Assembly or Meeting, within this lower Division of M. in Execution of An Act of Parliament made in the Seventh Year of the Reign of the late King James 1. (entituled An Act, for the due Execution of diverse Laws and Statutes heretofore made against Rogues, Vagabonds, and sturdy Beggars, and other lewd and idle Persons) or at the Quarter-Sessions, and not otherwise. Hereof fail not at your Peril. Given under our Hands and Seals, &c.

**A Mit-**



**A Mittimus for a dangerous Rogue,**

To the Constable of, &c. and to the Keeper of the House of Correction, &c.

Essex. ss. **I** Send you here-withal the Body of A. B. a Va-<sup>12 Ann. c. 23.</sup> grant, who was found wandring and begging this Day in the Parish of D. in this County, where he was apprehended and brought before me for the said Offence; and upon his Examination and other Circumstances, I have just Cause to believe the said A. B. to be dangerous to the People, and very unlikely to be reformed: These are therefore to require you to convey the said A. B. the next direct Way to the House of Correction for this County, requiring you also the Keeper of the said House of Correction, to receive the said A. B. into your Custody, and there keep him to hard Labour until the next Quarter-Sessions of the Peace, to be held for this County; and hereof sail not. Given under my Hand and Seal, &c.

**A Warrant to levy 20l. for not conveying a Vagrant to the Place whither he was ordered to be sent.**

To the Constable, &c.

Essex. ss. **W** Hereas D. L. the Headborough of M. in<sup>12 Ann. c. 23.</sup> the County of &c. was ordered by a Pass, to convey A. B. a Vagrant, from the Parish of M. where he was taken wandring and begging, to the said Parish of Q. in the County of, &c. where he was born; but the said D. L. did not convey or \* cause to be conveyed the said A. B. \* Or did counterfeit a Certificate, Receipt, or Note, as the Case is. to the aforesaid Parish of Q. he being the Person really intended by the said Pass to be conveyed thither, by Reason whereof he hath forfeited 20l. These are therefore to require you forthwith to levy the said Sum of 20l. on the Goods and Chattels of the said D. L. by Distress and Sale thereof, rendering to him the Overplus (if any such there be) and that you pay one Moiety thereof unto J. M. who first informed me of the said Offence, and the other Moiety to the Churchwardens and Overseers of the Poor of the Parish, of, &c.

## Vagrants, &amp;c.

where the said Offence was committed, for the Use of the Poor of the said Parish; and hereof fail not. Given, &c.

### A Warrant to levy the 20 l. for altering the Sum in the Certificate,

To the Constable, &c.

12 Ann. c. 23. **Essex. II.** **W** Hereas by an Order under my Hand and Seal, I did lately direct A. B. the Headborough of E. to convey C. D. a Vagrant, from the Parish of E. to the Parish of M. that being the Place of his Birth: And I did further order, that the said C. D. should be conveyed thither on Foot, in the Space of three Days from the Date of the said Order and Certificate, and did allow the Sum of 9 s. and no more, unto the said Headborough for his Charge in conveying the said Vagrant as aforesaid; which said Sum of 9 s. was \* altered by the said A. B. and by him made 19 s. all which hath been duly proved before me, by Reason whereof he hath forfeited 20 l. These are therefore to require you forthwith to levy the said Sum of 20 l. upon the Goods and Chattels of the said A. B. by Distress and Sale thereof, rendering to him the Overplus, if any such there shall happen to be; and that you pay one Moiety thereof to L. Y. who first informed me of the said Offence, and the other Moiety to the Church-wardens or Overseers of the Poor of the Parish of M. where the said Offence was committed, to the Use of the Poor of the said Parish. Given under my Hand and Seal, &c.

\* Or counterfeited the Certificate, or not conveyed the Vagrant, as directed.

A Receipt

**A Receipt from the next Constable, on Delivery of a Vagrant, to be endorsed on the Certificate.**

**I** A. B. Constable of, &c. in the County of, &c. do hereby 12 Ann. c. 23.  
by acknowledge that I have received this Day &c. of  
and from C. D. Constable of, &c. in the County of, &c.  
J. L. a Vagrant, by the said C. D. brought hither in his  
Way to, &c. the Place of his last legal Settlement, by Vir-  
tue of a Pass granted by, &c. Witness my Hand the  
Day and Year above-written.

**A Receipt for Money for passing Vagrants.**

**R**ecieved this Day, &c. of A. B. High Constable of 12 Ann. c. 23.  
the Hundred of, &c. the Sum of, &c. for conveying  
J. L. a Vagrant, to the Town of, &c. being the Sum as-  
certained by the Justices Certificate within mentioned. Wit-  
ness my Hand this, &c.

E. M. Petty Constable of, &c.

**A Justice's Allowance and Taxation of a Constable's Account for conveying Vagrants, to be added at the Foot of the Account.**

**I** Having examined this Account of the Constables of, &c.  
for Conducting and Entertainment of Vagrants (by Vir-  
tue of Passes, which were allowed and signed by me) do think  
the same to be just and moderate; and hereby direct and order  
the same, amounting to, &c. to be reimbursed to the High  
Constable of the Hundred of, &c. for their Use. Witness  
my Hand, &c.

Mit-



Mittimus of a Vagrant to the House of Correction, escaping from the Place to which he was sent.

To the Constable, &c. and to the Keeper of the House of Correction, &c.

12 Ann. c. 23. Essex. ff.

**W** Hereas A. B. a Vagrant, was sent by a Pass from L. in the County of, &c. to the Parish of M. in the County of, &c. and delivered to the Church-wardens of the said Parish of M. or to one of them, but did soon afterwards escape from the said Church-wardens, and was found and retaken wandering and begging in the Parish of H. &c. all which hath been duly proved before me: I do therefore herewithal send you the Body of the said A. B. requiring you to receive him into the House of Correction, and there keep him to hard Labour till the next \* Quarter-Sessions of the Peace to be holden for, &c.

\* If he do not then give security for his good Behaviour for a Year, he shall be adjudg'd an incorrigible Rogue, and punished as such,

A Warrant to levy the Charges upon the Parish not employing him, or suffering him to escape.

To the Constable, &c.

12 Ann. c. 23. Essex. ff.

**W** Hereas A. B. a Vagrant, was lawfully sent by a Pass to the Parish of M. in the County, &c. that being the Place of his Birth, the Place of his last Settlement not being known; and being delivered to the Officers of the said Parish of M. they refused to employ him in Work, but voluntarily suffered him to escape: And whereas the said A. B. was afterwards re-taken wandering and begging in the Parish of K. &c. the Charges whereof do amount to 40 s. I do therefore require you to levy the said Sum of 40 s. by Distress and Sale of the Goods and Chattels of J. K. one of the Overseers of the Poor of the said Parish of M. in Default for not employing the said A.

A. B. but suffering him to escape as aforesaid, and that you pay the said 40 s. to the Church-wardens of the said Parish of K. for the Use of the Parishioners of the said Parish, by whom the said Charges were expended.

**Mittimus of a Vagrant to the House of Correction, refusing to work.**

To the Constable, &c. and to the Keeper of the House of Correction, &c.

Essex. ff. **W** Hereas A. B. a Vagrant, being taken <sup>12 Ann. c. 23.</sup> wandring and begging in the Parish of L. &c. in this County, &c. was lately brought before me; and it not appearing to me that he hath obtained any legal Settlement since his Birth, but that he was born in the Parish of M. &c. I did therefore, by a Pass under my Hand and Seal, send him from L. the Place where he was taken, the next direct Way to the Parish of M. where he was born; and he being delivered to the Officers of the said Parish of M. they would have employed him in Work till he could get some Service or Employment, but he refused, and still doth refuse to work: These are therefore to require you to receive the said A. B. into your Custody, and to keep him to hard Labour until he shall be discharged by due Course of Law, &c.

**A Warrant against an Headborough for not removing the Lame and the Blind.**

To the Constable, &c.

Essex. ff. **W** Hereas A. B. and C. D. two of the In- <sup>12 Ann. c. 23.</sup> habitants of the Parish of M. in this County, did complain to J. L. the Headborough of the said Parish, in the Absence of M. W. the High Constable, that several blind Men did place themselves on the first Day of April last in the Highway in the said Parish of M. and did beg there, to the great Annoyance and Disturbance of the Passengers; and the said J. L. did not, upon due Notice thereof, as aforesaid, cause them to be removed, but suffered them to continue still there begging: And whereas the

## Vagrants, &amp;c.

the said A. B. and C. D. did, within 24 Hours next after such Neglect, make Oath thereof before me J. S. Esq; one of his Majesty's Justices of Peace for this County where the said blind Men were found begging: These are therefore to require you to levy the Sum of 10 s. by Distress and Sale of the Goods and Chattels of the said J. L. rendring to him the Overplus, if any such shall happen to be, and that you pay the same to the Church-wardens and Overseers of the Poor of the said Parish of M. for the Use of the Poor thereof, that being the Parish where the aforesaid Offence was committed. Given under my Hand and Seal, &c.

## A Warrant to apprehend a Madman.

To the Constable, &c.

12 Ann. c. 23. Essex. ff. **W** Hereas A. B. a furious Lunatick and disorderly Person, has been lately seen walking in the Parish of M. &c. to the great Terror, Disturbance and Frighting the People there: These are therefore to require you forthwith to apprehend the said A. B. and cause him safely to be locked up, until he shall be discharged by due Course of Law: And hereof fail not, Given under our Hands and Seals, &c.

The Condition of the Recognizance, that a Vagrant transported shall not be sold to an Alien, &c. to be transmitted to the Sessions.

12 Ann. c. 23. **T** HE Condition of this Recognizance is such, that whereas A. B. a Vagrant, being lawfully placed as an Apprentice or Servant to the above-bound E. M. for the Space of seven Years, and is now about to be transported beyond the Seas: If therefore the said A. B. shall be sent and employed during all that Time in some of his Majesty's Plantations, or in some British Factory, and there supplied with Necessaries fitting and convenient for his Degree, and shall not be sold to any Alien, but at the End of his seven Years from the Commencement of his said Apprenticeship, shall be absolutely discharged and set at Liberty, then this Recognizance



*Recognizance shall be void, otherwise shall remain in full Force and Virtue.*

**An Order to a Master of a Ship to pay 5 l. for bringing a Beggar from the Plantations.**

To M. C. Master of the Ship or Vessel,  
&c. now lying, &c.

Essex. ff. **W** Hereas it hath been duly proved before me <sup>12 Ann. c. 23.</sup>  
J. S. Esq; one of his Majesty's Justices  
of Peace for the County of, &c. that M. C. Master of the  
Ship or Vessel, &c. now riding, &c. within the Limits of  
the County aforesaid, did lately bring into this Realm from  
New England \* one J. K. a Vagrant Native thereof, who \* Or from the  
since his Landing here, hath been apprehended wandring and Isles of Man,  
begging in the Parish of M. in the County of, &c. by Rea- Ireland, Jersey,  
son whereof the said M. C. hath forfeited the Sum of 5 l. Guernsey,  
Now I do hereby order the said M. C. to pay or cause to be Scilly, or the  
paid unto O. N. the Constable of, &c. the said Sum of 5 l. Plantations.  
together with 20 s. more, which, by the Oath of the said  
O. N. it appeareth unto me he did necessarily sustain in ap-  
prehending the said J. K. and reconveying him to New Eng-  
land, from whence he was brought, as aforesaid. Given  
under my Hand and Seal, &c.

**A Warrant to the Master of a Ship to trans-  
port a Vagrant to Ireland, the Place of his  
Settlement, &c.**

To M. C. Master of the Ship or Vessel,  
called, &c. now riding, &c.

Essex. ff. **W** Hereas A. B. a Vagrant, was appre-  
hended wandring and begging in the  
Parish of W. in the County of, &c. and upon his Exami-  
nation and other due Proof, it appeareth unto me, that the  
last Place of his lawful Settlement was at N. &c. in the  
Kingdom

\* Or in any of the Plantations, as the Case is.

*Kingdom of \* Ireland.* I do therefore hereby order and require you to take the said A. B. on board your Ship, now riding at, &c. within the Limits of this County, and to transport him from thence into Ireland aforesaid; and for your so doing, this shall be your Warrant. Given under my Hand and Seal, &c.

A Warrant to levy the 5*l.* on a Master of a Vessel refusing to transport a Vagrant.

To the Constable, &c.

12 Ann. c. 23. Essex. ff.

**W** Hereas by a Warrant under my Hand and Seal, directed to M. C. Master of the Ship or Vessel called, &c. now riding at, &c. within the Limits of the said County, he was ordered to take on board his said Ship one A. B. a Vagrant, and to transport him from, &c. to Ireland, where he was last legally settled; but the said M. C. did and doth still refuse to take the said A. B. on board his said Ship, and to transport him to Ireland, as aforesaid; by Reason whereof he hath forfeited 5*l.* These are therefore to require you forthwith to levy the said Sum of 5*l.* by Distress and Sale of the said Ship, and Goods therein, or so much thereof as shall raise the said Sum of 5*l.* and that you pay the same to the Church-wardens or Overseers of the Poor of the said Parish of, &c. where the said A. B. now lieth for Transportation, for the Use of the Poor thereof. Given under my Hand and Seal, &c.

Stellunt

## Vellum and Parchment:

One Justice may take the Affidavit of the Maker of Paper, Vellum, Parchment and Pastboard, what the Value of the same is, for which he is to pay 20 L. per Cent. Tax. Stat. 8 & 9 W. 3. c. 7. One Justice may take the Affidavit of Maker of Paper, &c.

Where Complaint is made by the Owner of any Paper, Parchment, Vellum or Pastboard, that the same hath been seized for any Offence against the Act 8 & 9 W. 3. c. 7. two Justices are to summon Witnesses, and examine the Cause of the Seizure upon Oath, and to hear and determine the Matter between the Owner and the Seizor. *Ibid.*

But Complaint must be made in eight Days after the Seizure is made, and an Appeal lies to the Quarter-Sessions. *Ibid.*

## Verdict.

Verdict, *quasi Vere dictum*, is the Sentence of the Jury after Evidence given as to Matter of Fact; for *ad quæstionem Færis respondent Judices, sed ad quæstionem facti respondent Juratores.*

In capital Cases the Jury cannot be discharged before the Verdict is given. In capital Cases Jury can't be discharged,

And it must be given openly in Court; for no Privy Verdict is allowed in such Cases, tho' a Special Verdict. One often is.

If the Indictment is for Murder, they may find the Defendant guilty of Manslaughter, Chance-Medley, or *se Defendendo*; but then they must find in what Manner, that the Court may judge of the Law arising upon the Fact; and the Court, upon Examination But a special Verdict may.



## Verdict. Victuallers, &amp;c.

tion of the Matter, may judge contrary to the Verdict. As the Jury found that *A.* killed *B.* *se Defendendo*; and, upon Examination of the Matter, the Court adjudg'd it to be Manslaughter, against the Verdict. 1 Cro. 114. *A.*

Case.

*Mansell* was indicted for Murder; the Foreman of the Jury said he was guilty of Manslaughter, the rest of the Jury informed the Court that they did not agree to that Verdict. Then the Court asked *Mansel*, Whether he would be discharged of that Jury? He consented, and the Prisoner was tried by another upon the same Indictment, and found guilty of Murder, and had Judgment to be hanged.

Jury may find less than laid in Indictment, but not more.

Tho' the Indictment specify the Goods to be above Twelve-pence, yet the Jury may find that the Goods were worth but Six-pence, or less; upon which Verdict it shall be taken to be but Petty Larceny. 1 Cro. 114.

So if one be indicted of Felony and Burglary, they may acquit him of the Burglary, and find him guilty of Felony only.

So one arraigned of Murder, may be found guilty only of Manslaughter. *Ibid.*

For there is no Necessity of finding the Value of any thing as laid in the Indictment; more they cannot find, but less they may.

## Victuallers and Victuals.

Forfeiture of  
Victuallers,  
&c. selling at  
unreasonable  
Prices.

**A** Lehouse-keeper,  
Baker,  
Brewer,  
Butcher,  
Cook,

Costard-monger, or  
Fruiterer,  
Fishmonger,  
Inn-keeper,  
Poulterer,

Or any other Sellers of Victuals, if they sell at unreasonable Rates or Prices, they lose double the Value, by Stat. 23 E. 3. c. 6.

By Stat. 13 R. 2. c. 8. Victuallers shall sell their Victuals at such reasonable Prices as shall be set down by the Justices of Peace in two of the Sessions to be held betwixt *Easter* and *Michaelmas*, on Pain to be

be punished at the Discretion of the said Justices, where no Pain is limited in certain.

- If any of the said Trades conspire, or make Agreement together to sell at no other Prices but what they agree on, the first Offence is 10 l. or twenty Days Imprisonment, if they pay it not within six Days after Conviction; the second Offence is 20 l. and if they do not pay it in six Days, as aforesaid, they shall suffer the Pillory; for the third Offence shall forfeit 40 l. and that not paid within six Days, as aforesaid, shall again suffer the Pillory, lose one of their Ears, and be ever after taken as infamous, and not to be credited. An if such Conspiracy be acted by the major Part of the Company, the Corporations shall be thereupon dissolved by Stat. 2 & 3 E. 6. c. 15. continued and confirmed by 22 & 23 Car. 2. c. 19. and 1 Jac. 2. c. 17. Punishment if any such agree or conspire to sell, &c.

By Stat. 21 Jac. 1. c. 21. Inn-holders and Hostlers shall make no Horse-bread, and shall sell their Hay, Provender and Victuals at reasonable Prices, and shall take nothing for Litter.

If any Inn-holder, Hostler or other, offend this Law in any Kind whatsoever, for the first Offence they shall be fined; for the second, suffer a Month's Imprisonment, without Bail; for the third, be in the Pillory; and for the fourth, shall be fore-judged from ever keeping an Inn again.

To sell Swines Flesh meased, or any Flesh that died of the Murrain, or other corrupt Victual, is fineable by the Statute of Pillory and Tunbrel. 31 H. 3. Stat. de Piscoribus. 31 E. 1.

Under-Sheriff. Vid. Sheriff.

## Unlawful Assembly. Vid. Riot.

What is an unlawful Assembly.

**A**N unlawful Assembly is when three or more Persons meet together to commit some unlawful Act, as to beat a Man, or forcibly enter upon his Possession, &c. 1 G. 1. c. 5. And the very Meeting together to do such an Act, is an unlawful Assembly, tho' they depart without doing it, or any other unlawful Act.

What a Rout.

A Rout is such an unlawful Assembly, moving on from the Place where they first met, towards the putting the unlawful Act in Execution, whether they afterwards do it or not.

What a Riot.

A Riot is such an unlawful Assembly, actually putting the unlawful Act in Execution.

But two Things most essentially concur in unlawful Assemblies, Routs and Riots; viz. 1. There must be three or more met together. 2. There must be some apparent Disturbance of the Peace, either by Speaking, Shew of Weapons, or turbulent Gestures, or some actual Violence.

One Justice may raise a Force to suppress such Assemblies.

Any Justice of Peace may of himself command a sufficient Force to suppress such Assemblies, and to apprehend the Offenders: And if any of them should be hurt or wounded in making Resistance, the Person so wounding, &c. is not to be punished.

Riot Act,  
1 G. 1. c. 6.

And it can be no Riot, except there is a precedent Intent to do an unlawful Act, and that with Force.

By a Stat. made 1 G. 1. c. 6. where twelve or more are unlawfully assembled, one Justice, Sheriff, &c. on Notice of such Assembly, shall come as near to them as he can, without Danger; and having commanded Silence, shall read the Proclamation specified in the Act, (which see in Title Riot); and if, after Proclamation made, such Rioters do not disperse within an Hour, 'tis Felony without Benefit of Clergy. And all Persons opposing with Force, or hurting him who begins to make Proclamation, so that it cannot be made, shall likewise be Felons without Benefit of Clergy.

But



But Prosecution, &c. must be within 12 Months after the Offence: So jealous are our Legislators to suppress all disorderly and tumultuous Meetings at the very Beginning, and before they have formed themselves into a regular Body.

## Unlawful Games. Vid. Gaming.

## Wages. See Servants and Apprentices.

**T**HE Statutes for Settling the Wages of Servants, Labourers, &c. are the 5th El. c. 4. and 17. c. 6. By the Stat. 5 El. c. 4. such Wages of Labourers, Artificers, Servants and others, as have been formerly rated, or concern Husbandry, shall be yearly assessed for the County, by the Sheriff and Justices of Peace in Sessions, and in Corporations by the Head Officer, at their *Easter* Sessions, or within six Weeks after, and before the 15th of *July* following, shall be certified under their Hands and Seals in the Chancery. Whereupon the Lord Chancellor, or Keeper, shall send down printed Proclamations thereof into every County and Corporation before the first of *September* then next following; which the said Sheriffs, Justices and Head Officer, shall, before *Michaelmas* after, cause to be enrolled and proclaimed. But here, where the old Rates shall be certified to stand, no Proclamation is needful.

Every Justice of Peace or Chief Officer, who shall be absent at Rating of Wages, (being not hindered by Sicknes, or some other reasonable Cause, to be allowed by the Justices, upon Affidavit) shall forfeit 10 l.

He who gives greater Wages, forfeits 5 l. and may be committed for ten Days without Bail; and he who taketh more, being convicted before two Justices, shall be committed twenty-one Days, without Bail.

And every other Retainer, &c. void.

And every Retainer, Promise, Gift or Payment of Wages, or other Thing, contrary to the true Meaning of this Act; and every Writing and Bond to be made for that Purpose, shall be void.

And by Stat. 1. *Ja.* 1. c. 6. the Stat. of 5 *El.* c. 4. shall give Power to the Justices of Peace to rate the Wages of any Labourers, Weavers, Spinsters and Workmen, or Workwomen whatsoever.

Justices of Ridings, &c. may rate as well as Justices of Counties.

The Rating of such Wages in Sessions by the major Part of the Justices, within any particular Riding or Division, (where General Sessions have been used severally to be kept) shall be as effectual as those rated at the General Sessions of the whole County.

Sheriff may proclaim 'em, tho' not sent down.

The Sheriffs and Head Officers, within their several Precincts, shall cause the said Rates to be proclaimed in such Sort, as if they had been sent down printed from the Lord Chancellor or Keeper, which all Persons shall be bound to observe upon the Pains and Penalties mentioned in the said Stat. of 5 *El.* c. 4.

None shall incur any Danger for not making Certificate of the Rates into the Chancery, according to 5 *El.* c. 4.

Clothiers shall not rate any Workers in Cloth, &c.

A Clothier, being also a Justice of Peace, shall not be a Rater of Wages for any Artificers that depend upon making Cloth. *Ibid.*

An Indictment lies for giving more Wages than assessed by the Justices.

Sessions can't make an absolute Order of Reference.

A Servant complained to the Sessions, that her Master would not pay her her Wages; and on hearing both Sides, the Sessions referred it by Agreement to Sir T. L. and made an Order of Reference by Consent: Afterwards Sir T. L. made an Award; and upon a *Certiorari* brought, adjudged that the Sessions cannot, by the Consent of the Parties, make an absolute Order of Reference of a Thing to be determined by another, tho' they make an Order of Reference to examine and report. 2 *Salk.* 477.

Wages in Husbandry shall be intended, if contrary does not appear.

An Order to pay 40 s. generally for Wages, without saying for what Wages; and the Justices have Power only to settle Wages in Husbandry: Adjudg'd, upon a Motion to quash this Order, that it shall be intended for Wages in Husbandry, since the contrary doth not appear. 2 *Salk.* 484.

Order that *W. R.* should pay to *W. W.* so much Money for Labour and Work done, without saying that *W. W.* was his Servant: Quashed, for it doth not appear but that the Work done might be Carpenters Work, or any other Trade. *Mod. Cases* 91.

Order

Order to pay his Coachman's Wages quash'd; Statute extends because the Stat. 5 *El. c. 4.* doth not extend to Coachmen, or any other Servants but in Husbandry, only to Wages in Husbandry, not to Gentlemen's Servants.

*Jones Rep. 47.*

If an Order be general, viz. to pay so much to two of a Man's Labourers, or two of his Servants, the Court will suppose them Servants in Husbandry. 2 *Salk. 442.*

Order reciting, that *W. R.* and *W. R.* were retained by one *London*, the King's Gardener at *Hampton* Cafes about Wages.

*Court*, at so much *per Diem*, to work in the King's Garden there, and that they worked there so many Days, and that so much was due to them, which *London* was ordered to pay: This Order being removed from *Hicks's Hall*, was quash'd; for the Justices have only Power to enforce the Payment of Wages in Husbandry, because they have Power by the Statute to settle such Wages. 'Tis true, where an Order is for Payment of Wages generally, it shall be intended Wages in Husbandry; but upon the Face of this Order, it appears to be otherwise; for Gardening is not Husbandry within the Statute, being making of ornamental Walks, and not for Profit. 2 *Salk. Reports 442.*

Moved to quash an Order, made by two Justices for Wages, without alledging them to be Servants in Husbandry; for it did not appear the Justices had any Jurisdiction. Quash'd *Pas. 5. Ann. Dom. Reg. versus Paine*, Clerk of the Peace of *Westmoreland*.

If the greatest Part of the Justices resident be not present at the Rating Servants Wages, all that is done will be void; and the Justices are to consult considerate Persons of the County in Rating of Servants Wages, and have Regard to Plenty and Scarcity, and other Circumstances. *Bridg. Rep. 118.*

A *Certiorari* was awarded to the Justices of Peace of *Middlesex* to remove an Order made by them; which was, that *Mr. Daval* should pay his Coachman the Wages agreed between them; against which it was moved that the Stat. 5 *El. c. 4.* doth not extend to Coachmen, or any other Servants than what belong to Husbandry; which was owned by the Court, and the Order was quash'd. *Pasc. 28. Car. 2. B. R. T. Jones Rep. 2. 47.*

By Stat. 1 *Ann. c. 18.* two Justices may hear and determine all Wages, Demands, Frauds and Defaults of Labourers in the Woollen, Linen, Fustian, Cotton, Manufactures.



ton and Iron Manufactures, for or concerning any Work done in the same Manufactures. Witnesses are to be summoned, and an Appeal lies to the Quarter-Sessions.

Master may gratify his Servant, tho' not by Way of Contract.

The Masters ought not to give greater Wages than are settled by the Justices in Sessions, by Way of Contract; yet they may reward a well-deserving Servant, &c. (over and above his Wages) according as he shall deserve; so that 'tis not by Way of Promise or Agreement upon his Retainer.

Any two Justices of Peace may imprison, without Bail, the Master who shall retain or keep any Servant, Workman or Labourer, contrary to the Statute *ff.* for retaining or hiring a Servant for less Time than one whole Year. But this extends to Artificers or Tradesmen, and only to such Trades as are named in this Statute, and not to Husbandry. *Dalt.* 186.

A Master convicted before two Justices, (one *Quor.*) by his own Confession, or the Evidence of two Witnesses, not to have observed the said Rates, by paying less than the Rates so appointed, shall forfeit 10*s.* to the Party grieved, to be levied upon Warrant from the same Justices, by Distress and Sale of his Goods. *Ibid.*

If a Servant hired according to the Statute depart before the End of his Term, or at the End of his Term, without a Quarter's Warning, or refuse to serve for the Wages limited, or promise to serve, and do not serve, upon Complaint, any two Justices, or the Mayor and two Aldermen, &c. may commit him to Ward without Bail, until he be bound to the Party offended to serve as he ought. *Ibid.*

Wages of Justices, &c.

Justices of Peace must meet twice in the Year, to enquire of the Breaches of the Statute of 5 *El.* c. 4. and shall have Five Shillings *per Diem*, out of the Fines and Forfeitures, for their Wages, for three Days. *Per 5 El. c. 4.*

In Action for Wages, Master can't wage his Law.

Action of Debt for Wages lies against an Executor, where one is retained that is compellable to serve; and in an Action upon the Statute for Wages, a Master cannot wage his Law. *Moor* 698. 1 *Brownlow* 61. *Co. Rep.* 9. *f.* 88.

It seems that none are bound to observe the Wages settled by the Justices of Peace, till they are proclaimed.

If a Woman Servant marry, yet she must not be put away, but must serve her Time. So if two married People bind themselves, they must serve their Time. If a Woman Servant marry, she must serve her Time out.

Justice of Peace may have his Action of Debt against the Sheriff for his Wages at the Sessions. 1 Cro.

177. 4. N. 23. N. 30.

Justices of Peace shall be paid their Wages out of the Fines and Amercements of the same Sessions; and they ought to assess the Fines in the Court, and the Clerk shall indent the Estreats betwixt the Justices, and the Sheriff and the Justices shall put their Names thereto, to the End the Sheriff may know to whom to pay Wages, and levy the same to pay the Justices; whereupon the Sheriff shall be allowed the same upon his Account in the Exchequer. 14 R. 2. c. 11. Lamb. 628. Cro. 177. 4. N. 30. And the Estreats of the Justices of Peace are an immediate Warrant for the Sheriff to levy the Fines, &c. arising before them. *Ibid.* Method of paying the Justices their Wages.

Rates of Wages ingrossed in Parchment are to be kept by the *Custos Rotulorum*, and, if in a Corporation, amongst the Records thereof, and therefore may be seen with the Clerk of the Peace.

Wherefore, it may seem needless here to insert a Table of Wages, and the rather, because they differ in many Counties, according to the Plenty or Scarcity of Provisions, &c.

And for Warrants relating to Wages, see in the Titles *Servants* and *Apprentices*.

## Warrants. See Constables.

Two Sorts of Warrants, by Word of Mouth, and in Writing.

**T**HERE are two Sorts of Precepts of Justices of Peace, one a Precept by Word of Mouth, and the other a Precept in Writing, under the Hand and Seal of the Justice, or at least under his Hand.

For a Justice of Peace (being a Judge of Record) his Precept or Command by Word of Mouth, is in some Cases as strong as his Precept in Writing; as where a Riot or an Affray, Assault, Threatning, or other Breach of the Peace, is done in his Presence, he may command an Officer or his Servant to arrest the Offender to find Sureties for the Peace.

And where a Justice of Peace commands one being present to arrest another, that is also in his Presence, it is good, and is reputed as an Arrest made by the Justice himself. *Br. Faux Impr. 33.*

Case of Arrest or by Word of Mouth,

In false Imprisonment, Defendant justified that the Plaintiff being in Presence of a Justice of Peace, the Justice not having Opportunity to examine him, commanded the Defendant to take him into Custody and keep him safely till next Day, the which he being Constable did accordingly do; and this was held a good Justification, without shewing what Cause the Justice had to imprison him, and without shewing the Warrant, because it was done in the Presence of a Justice of Peace. *Broughton ver. Mulsoe. Trin. 37 El. Moore's Rep. 401.*

Warrants in Writing ought to specify the Cause.

Warrants in Writing, if they be for the Peace or Good Behaviour, or the like, where Sureties are to be found or required, there the Warrant ought to contain the Special Cause and Matter whereupon it is granted, that the Party may provide his Sureties ready, and take them with him to the Justice of Peace, to be bound for him, which he is obliged to tender, or the Justice may commit him for Want of Sureties.

Justice must not grant a blank Warrant.

It is not safe for a Justice to grant a blank Warrant, if he does, he may be fined. *Crompt. Aut. des Courts 34.*

And he ought not to grant his Warrant against a Felon, without examining the Person upon Oath, who requires it, and binding him over to give Evidence. *Dalt. 579.*

The



The Warrant in Writing of the Justice of Peace, should also be under his Hand and Seal, unless where the Statute says it may be under the Hand only of a Justice of Peace. *Ibid.*

The Justice of Peace may make his Warrant to bring the Party before himself. And yet upon a Warrant for the Peace, granted *ex officio*, the usual Manner is otherwise.

Also the Justice may in some Cases make his Warrant to attach the Offender to appear at the next Sessions of the Peace, there to answer his said Offence, &c. And where the Justice shall command one by his Warrant to be or appear at the next Sessions, &c. if the Party do not appear, then from that Sessions there shall go out a Precept to attach him for his Contempt. *Ibid.*

Also where any Statute doth give Authority to a Justice of Peace to cause another Person to do a thing, there it seems they have Power given them to grant their Warrant to bring such Person before them, that so they may take Order therein. *Ibid.*

If Justices of Peace bind over or grant a Warrant against an Offender, upon any penal Statute, to appear at the Sessions to answer to their Offence or Fault, though such Statute be within the Power of the Justice of Peace, yet such Warrant or Binding over such Offenders, may seem not warranted unless it be Specially so appointed in the Statute, as it is by the Statutes of 5 *El. c. 4.* 23 *El. 10.* 39 *El. c. 11.* 33 *H. 8. c. 1.* But such Offenders ought first to be indicted, and thereupon Process from the Sessions is to be awarded against them until they come in, &c.

No one or more Justice of Peace can make a Warrant upon a bare Surmise to break any Man's House to search for a Felon or stolen Goods; there must be a Felony actually committed and sworn to, whereon to ground their Warrant. Warrant to break open a House must not be on a bare Surmise.

Where the Offence prohibited by any Statute amounts to a Breach of the Peace or Good Behaviour, there the Justice may (either upon Discretion, or Complaint of such an Offence and Breach of the Statute) grant out his Warrant, and bind over the Offender to the next Quarter-Sessions, &c. to answer his said Default, and in the mean Time to be of the Good Behaviour. Where Justice may grant his Warrant discretionally.

The Constable is the proper Officer to whom a Warrant is to be directed; but a Justice may direct it to the Sheriff, Constable, or other Officer; and in some to others. Constable is the proper Officer to whom Warrant is to be directed, tho' it may be to others.

some Cases (by particular Directions of the Statute) to the Church-wardens and Overseers, &c. or to any other indifferent Person by Name, though he be no Officer. But there is this Difference in the Execution of it, That if it be executed by a Sworn Officer, he need not shew his Warrant to the Person upon whom he serves it, though he ought to declare the Contents thereof; and if executed by a private Person, it must be produced if demanded, or else the Party may make Resistance, and needs not to obey it. *Br. Fines Impr. 23.*

A Warrant directed by the Justice of Peace to two Men jointly to arrest another, &c. yet any one of them alone may do it, because it is done for the Execution of Justice, and for the publick Good. *Dalt. 557. c. 169.*

Warrant to Sheriff; he need not execute it himself.

A Warrant directed by the Justice of Peace to the Sheriff, he may by Word command his Under-Sheriff, Bailiff, Servant, or other known or sworn Officer, to serve it, without any Precept by Writing. *Ibid.*

But all others must.

But if the Sheriff will command another Man who is a Stranger to serve it, he must deliver him a Precept in Writing; otherwise false Imprisonment will lie for the Arrest. *Ibid.*

How a Warrant must be executed.

A Warrant directed by a Justice of Peace to any Person but the Sheriff, he to whom it is directed must serve it himself, for he can command no other to do it, neither by Word nor Writing, nor make any Deputy. *Dalt. 578. c. 169.*

The Officer to whom the Warrant is directed and delivered, ought with all Speed and Secrecy, to find out the Party and execute the Warrant; and if it be a Warrant for the Peace or Good Behaviour, or in any Case where the King is Party, the Officer may break open Doors to take the Offenders; and if he is resisted or assaulted, he may justify the Beating and Wounding, &c.

When one is obliged to submit to the Arrest, when not.

If a Person says, I Arrest you in the King's Name, &c. you ought to obey, though you know not whether he be an Officer or no; and if it appears afterwards that he was no legal Officer, an Action of false Imprisonment lies against him; but if you certainly know that the Person is no Officer, you are not obliged to obey. *Co. 9. Rep. 69.*

False Imprisonment.

Where a Warrant is granted to take R. N. the Son of T. N. and the Officer arrests R. N. the Son of W. N. though he is the Offender, yet it is false Imprisonment. *Dyer. 244.*

If an Officer arrest a Person for the Peace, &c. without Warrant, and afterwards he receives a Warrant, yet this Arrest is wrongful, and false Imprisonment in the Officer. *Ibid.*

If after an Officer has arrested a Person, he shall suffer the Person to go at large upon Promise to return or appear, &c. though he makes Default in his Appearance, yet the Officer cannot retake him by Virtue of his first Warrant, because it was once executed, and his going at large was with the Consent of the Officer; but if the Party makes his Escape without the Consent of the Officer, then upon fresh Suit the Officer may take him again and again, so often as he escapeth, although he were out of View, or that he fly into another Town or County. *Co. 58. 144.*

When Officer can retake one arrested when not.

Where an Officer has received a Warrant, he is bound to pursue the Effect of it in every Behalf, or otherwise his Warrant will not excuse for that which he does otherwise.

If a Justice of Peace exceeds his Authority in granting a Warrant, yet the Officer must execute it, and is indemnified in so doing; but if it be in a Case where he has no Jurisdiction, or in a Matter whereof he has no Conscience, the Officer ought not to execute such Warrant; for if he does he may be punished. *Co. Car. 394. 10 Co. 76.* and so note that the Officer is bound to take Notice of the Authority and Jurisdiction of the Judge.

When Officer is obliged to execute a Warrant, and when not.

If any Man shall abuse the Justice of Peace his Warrant, as by throwing it into the Dirt, or treading it under his Feet, &c. or shall refuse to execute it, it shall be adjudged a Contempt of the King's Process, for which the Offender may be bound to his Good Behaviour, and may also be indicted and fined. *Crompt. 149.*

Penalty of abusing Justice's Warrant.

All Warrants in Writing ought to be under the Hand and Seal of the Justice; for every Justice of Peace (being a Judge of Record) ought to have a Seal of Office. They must express the Year and Day when granted. And *Lambard* says that it is requisite the Place be likewise named, but this latter has been disused for a considerable Time. Upon a Warrant for the Peace, the Officer ought first to require the Party to go before the Justice before he does arrest him. *Dalt. 580. c. 170.*

A Justice



A Justice of Peace his Warrant of the Peace ought not to be granted against a Peer of this Realm, or Peereſſ by Creation or Birth, but B. R. may; but if they are only noble by Marriage, and the Husband dies and then they marry beneath the Peerage, they loſe that Dignity.

None can  
commit but  
Judge of Re-  
cord.

No Man may commit another to Priſon unleſs he be a Judge of Record. Co. 10. 103.

A Juſtice of Peace ought not to grant a Warrant for Felony without examining the Perſon who required it upon Oath, and binding him over to give Evidence.

Conſtable is to  
have the Elec-  
tion what Ju-  
ſtice to go be-  
fore.

If the Warrant is general, viz. to be brought before the Juſtice who grants it, or any other Juſtice, &c. the Conſtable who is the Officer and Miniſter of Juſtice, may carry the Party before any Juſtice of that County, &c. becauſe he is preſumed to be an indifferent Perſon, and ſworn to execute his Office duly, and therefore it is reaſonable that the Election ſhould be in him. 5 Rep. Foſter's Caſe.

And may plead  
general Iſſue.

By Statute 7 Jac. 1. c. 7. in all Actions brought againſt Conſtables in Execution of their Office, the Conſtable may plead the general Iſſue, and give the Special Matter in Evidence, which together with the Warrant, will be a ſufficient Excuse for him.

How a Mit-  
timus muſt con-  
clude.

A Mitimus muſt not always conclude (until he be diſcharged by due Courſe of Law) but where it is for an Offence created by a particular Statute, it ought to conclude according to the Direction of that Statute.

A Juſtice of Peace cannot command his Servant to arreſt one in his Abſence, without a Warrant in Writing. 1 Brownl. 205.

If a Rate be unduly taxed, the Warrant of a Juſtice of Peace for the levying thereof, will not excuſe the Officer. Cro. Car. 395.

Where Sureties are to be required, the Warrant ought to contain the Special Cauſe whereupon its granted. Palm. 558.

A Warrant may be made to bring before a particular Juſtice. Co. 5 Rep. 59. Foſter's Caſe.

Warrant ſhall  
be intended in  
Writing, tho'  
not ſo expreſs'd.

In a Return of a Reſcue *quod fecit Warrantum*, it ſhall be intended by Writing, though not expreſſed. Co. 3 Rep. 44. 1 Cro. 181.

A Warrant for Treason, Murder, or Felony, or other capital Offence, need not contain the Special Cauſe. 1 Cro. 148.

The County writ in the Margin of the Warrant, albeit not expressed in the Warrant, and in *Com' predic'* shall have Relation to the County set in the Margin. 1 Cro. 102. *Nu.* 29.

All Warrants made in the King's Name, ought to be directed to all Ministers, as well within Liberties as without. *Dalb.* 355.

A Warrant from a Justice of Peace to answer to such Things as shall be objected against the Party, without alledging any Cause (in Cases not bailable) was said by C. J. Coke to be good in the Cause. *Wilson ver. Dodd.* 1 *Roll's Rep.* 135. *pl.* 15. *Hil.* 12 *Ja.* 1.

But he cannot commit to Prison for certain Causes, *Mittimus* must but must alledge the Cause. *Boucher's Case.* *Mich.* specify the Cause. 3 *Fac.* 1. *Cro. Fac.* 81. *pl.* 4.

The Title of Direction may be either above the Warrant thus: *To the Constable of Dale*, or in the Body of the Warrant thus: *J. S. Esq; to the Constable of Dale: Whereas, &c.*

A Justice is at Liberty to direct his Warrant to the Justice in di- Sheriff, all High Constables, Petty Constables, &c. recting his in the County in general, or to any one in particular, unless the Statute do appoint him to whom to direct Warrant must his Warrants, as several Acts of Parliament do; some pursue the of them appointing him to direct his Warrant to the Statute. Constables, some to the Constables and Church-wardens, some to the Church-wardens and Overseers of the Poor, and it is not safe for the Justice of Peace to vary from it.

It is not amiss if the Warrant on Conviction of an It is not amiss Offence recite where the Offence is committed, thus: to mention the J. D. being convicted before me of being drunk (at Dale in Place where this County); because in many Cases the Forfeiture is Offence committed. given to the Poor of the Place where the Offence is committed.

So to mention the Time, when the Offence is by Law And also the to be punished within a certain Time, as when Pro-Time. secution must be within Three Months, &c.

If the Warrant say it was dated at one Place, and it be dated at another Place in the same County, yet the Warrant is good, and it shall be taken to be dated where the Warrant doth say it was dated.

Though for Treason, Felony, &c. it is not necessary to mention the Crime; yet it is best to express the Specify the the Cause, otherwise if the Prisoner escape it is no Crime. Offence; but if the Cause be set forth to be for Felony, &c. then a voluntary Escape will be Felony in the Officer,

## Warrants. Watch.

Officer, though the Prisoner be not Guilty of the Felony, &c.

Where an Act of Parliament doth say that the Justice shall do any Thing by Warrant under his Hand, there the Seal is not necessary; but where the Law says the Warrant must be under his Hand and Seal, there it must be so, or it is not good; and therefore it is better to put his Hand and Seal to every Warrant.

Indictment for not executing a Justice of Peace his Warrant. See *Constable*.

And for Warrants *Sparsum per totum*, &c.

## Watch.

Gates of walled Towns to be shut from Evening to Morning.

**I**N walled Towns the Gates ought to be shut from Sun-set to Sun-rising, and none shall lodge in the Suburbs, except the Host will answer for him. 3 H. 4. c. 5. § Ed. 3. c. 14.

Every Justice of Peace may cause the Watch to be set and duly kept, and may direct the Manner of it; but no Man is compellable to watch unless he is an Inhabitant of the Town.

Suspicious Persons may be examined by Watch, &c.

Any suspected Person passing by the Watch at unreasonable Hours, may be examined by the Watchmen; and if they find Cause of Suspicion, or if they refuse to answer, they may justify the Apprehending them and Securing them till the Morning; and if they will not obey the Arrest of the Watchmen, they may levy Hue and Cry, or else they may justify the Beating them, or they may carry them to the Constable, who may carry them before a Justice of Peace, as they see Cause by him to be examined, and be bound over or committed, until the Offender be acquitted in due Manner.

Case of one appointed by Constable to watch, &c.

In an Action of false Imprisonment the Defendant justified, because at that Time he was Constable of D. and appointed the Plaintiff to watch, and he refused, for which he set him in the Stocks. Upon a Demurrer it was said by *Wray*, Chief Justice, that the Defendant ought to shew that the Plaintiff was an Inhabitant in the Town, and that it was his Turn to watch!



watch : And if such Inhabitant refuse to watch in his Turn, the Constable may set him in the Stocks. *Trin. Term. 30 El. B. R. Leon. Rep. pt. 3. p. 208. pl. 271. Streeton and Brown's Case. Cro. Eliz. p. 204. S. C. and saith it was adjudged for the Plaintiff, because the Defendant did not shew that the Plaintiff was an Inhabitant there; and the Constable cannot appoint a Stranger to watch, neither by the Statute of Winchester. 13 Ed. 1. c. 4. nor by Statute; H. 4. c. 3.*

In the same Case these Points were resolved :

1. That no Man is compellable to watch unless he be an Inhabitant within the same Town.

2. That such as are Inhabitants within the Town, are not compellable to watch at the Will of the Constable, but only when their Turn comes; for the Statute of Winchester says that Watches shall be kept, as hath been used in Times past, which is commonly by Turn or by the House.

If a Person who ought to watch, and is commanded by the Constable so to do, refuses, it is doubted whether he may put him in the Stocks; it is safer for him to complain to a Justice of Peace, who may bind the Offender over to his Good Behaviour, and so over to the Sessions, or the Constable may present him there, or at the Assizes.

Watching is properly intended of the Night, and Warding for the Day-time.

By Stat. 5 Ann. c. 31. a Certificate under the Hand and Seal of two Justices of Peace, that a Watchman or other Person was killed in endeavouring to take a Burglar or House-breaker, entitles his Executor or Administrator to 40 l.

*Term. Mich. 16 Car. 2. B. R.* It was ordered by the Court, that as well in the Summer as in the Winter, Watch and Ward should be kept in the Night, in every Street throughout Westminster and the Suburbs of London; and they directed their Order to the Justices of Peace and the Sheriff, and charged the Sheriff with it in Court. And the Chief Justice said that a Rate should be made that every one who inhabits there, should contribute so much to such Charge. *1 Sid. Rep. p. 218.*

By Stat. 5 H. 4. c. 3. Watches shall be kept upon the Sea-Coasts, as they were wont to be.

And in every Commission of Peace, this Article should be inserted, viz. that the Justices of Peace shall have Power in their Sessions to enquire of Watches, and to punish them who shall be found in Default, according to the Tenor of the said Statute.

The

Constable can-  
not excuse  
from watch-  
ing in their  
Turn.

The Constable *ex officio*, is to order the Watch, and he may enlarge it as there is Occasion, but he cannot change the Course of it at his Pleasure, and make some watch, and excuse others.

The Watch ought to be from *Ascension* to *Michaelmas*, from Sun to Sun; and the Warding then of Course must be the rest of the twenty-four Hours; and for Default of this Watch and Ward, the Township may be punished.

### An Indictment for not watching.

Midd. H. J. W. R., *cc.* quod L. M. nup de Paroch' Dei Egidii in Campis in Com' Midd' Labourer 15 die Julii Anno, *cc.* & diu antea fuit Inhabitans in Paroch' pzed' quodque idem L. M. ad tunc & ibid. scilicet pzed' 15 die Julii Anno supradicto debito mono summonitus fuit ad vigiland' cum constabulario in Paroch' pzed' in nocte ejusdem diei pzed' tamen L. M. debitum suum in hac parte negligens in pzed' nocte ejusdem diei Anno supradicto vel in aliqua parte ejusdem noctis non vigilabit cum pzed' constabulario apud Paroch' pzed' in Com' pzed' sed hoc facere adtunc & ibid. neglexit & voluntarie & obstinate default' fecit in contemptum dicti D'ni Regis nunc & legu' suaru' & contra pacem dicti D'ni Reg' nunc Cozon' & Dignitat' suar.

A War-

A Warrant by Order of Sessions to keep Watch and Ward.

To the Constable and Headborough of, &c.

Essex. ff. **W**Hereas several Robberies, Felonies, and other Crimes have been lately committed in the County aforesaid, it was therefore ordered at the last Quarter-Sessions of the Peace, held at C. for the said County, that Watch and Ward be duly set and kept in all and every usual Place and Places within your Hundred. You are therefore to take care that the same be done pursuant to the said Order; and you are likewise to apprehend all idle and suspicious Persons, and bring them before us or some other of his Majesty's Justices of Peace for the said County, in order to proceed against them according to Law; and hereof fail not at your Perils. Given under our Hands and Seals, &c.

Watermen.

**B**Y Statute 11 & 12 W. 3. c. 21. the Lord Mayor and Court of Aldermen shall yearly elect Eight and Aldermen of the best Watermen, and Three of the best Lightermen, at the first Court of Aldermen next after the First Day of June, to be Overseers and Rulers of the said Wherry-men and Lightermen, who are made one Society.

The said Rulers, with the Auditors and Assistants of the said Company, to be chose from among themselves, may make Rules, with Penalties, for the good Government of their Society, which first approved by the Court of Aldermen, and after by the Lord Chief Justice of either Bench, shall be binding. Who with Assistants and Auditors, may make By-laws, &c.

The Lord Mayor and Aldermen of London, and the Justices of Peace in the Shires next adjoining to the Thames, between Gravesend and Windsor, in their several Jurisdictions, upon Complaint of the Overseers and Rulers, shall hear and determine Offences contrary



contrary to this Act, and also that of 2 & 3 P. & M. c. 16. and levy Penalties by Distress.

Penalties to be paid to the said Rulers.

None (except Trinity-men) shall row or ply on the said River, &c. in Boats, &c. for carrying Passengers for Profit, but such as have served their Time, or are Servants or Apprentices to Watermen; and all the Penalties of this Act shall be paid to the said Rulers and Overseers for the Use of the Poor and Decayed of the said Society.

Owners, &c. may use their own Boats.

Owners of Wharfs and Keys, betwixt *Hermitage-Bridge* and *London-Bridge*, and Woodmongers and Persons keeping Laystals, and Gardeners, may carry their Goods, &c. in their Boats by their own Servants, as heretofore.

Offences prosecuted in Thirty Days.

Offences against this Act must be prosecuted within Thirty Days.

Persons prosecuted for any Thing done in Pursuance of this Act, may plead the general Issue, or vouch this Act in Justification, which is declared a publick Act; and if a Verdict pass for the Defendant, &c. he shall have double Costs.

Offenders punished by this Act, shall not incur the Penalty of any other for the same Offence.

None to go on Thames on the Lord's Day without Licence, except, &c.

By Stat. 29 Car. 2. c. 7. no Person shall use or travel on the Lord's Day, with any Boat, Wherry, &c. except on extraordinary Occasion, to be allowed by a Justice of Peace or Head Officer of the Place, &c. on Pain to forfeit 5s. to be levied by Distress; and in Case of Disability, to set the Offenders in the Stocks for Two Hours, being convicted on View of the Justice or Head Officer, or by Confession, or Oath of one Witness. Notwithstanding which Clause, the said Rulers and Overseers, Auditors and Assistants, may by the said Statute of 11 & 12 W. 3. c. 2. appoint Forty Watermen to ply on every Lord's Day, between *Vaux-Hall* and *Lime-House*, for carrying Passengers cross the River, at a Penny each; which Watermen must account next Day for the Money to the said Rulers, &c. who are to pay them for their Labour, and apply the Overplus to the poor decayed Watermen and Lightermen of the Company, and their Widows.

And the Watermen neglecting every Monday to pay the whole so earned and received shall forfeit Forty Shillings.

Watermen of St. Margaret's excepted.

This shall not hinder the Watermen of St. Margaret's Westminster, from plying cross the Thames from Westminster-Bridge to Stangate, and from the Horse-Ferry

to *Lambeth Bridge* on the Lord's Day by Turns, as of late, and the Monies earned thereby being applied to the poor decayed Watermen and their Widows, of the said Parish of *St. Margaret's*; and any two Justices of Peace of the said Parish, may call the Watermen so working to account, and cause the Money by them so earned, to be applied as aforesaid; which Watermen of *St. Margaret's* shall choose two Stewards and a Clerk on *April 23*, yearly, and shall at a Meeting of their Society, appoint the Watermen so to work in their Turns, on the Lord's Day.

By Statute 2 & 3 P. & M. c. 16. a Wherry that is Dimensions of not Twelve Foot and one Half long, and four Foot a Wherry: and one Half broad in the Midship, shall be forfeit, one Moiety to the King, the other to the Informer.

That Waterman that withdraws himself in Time of Penalty of Pressing (it being proved by two Witneses, before withdrawing the said Mayor, Aldermen, or Justice, and two of the said Overseers) shall suffer a Fortnight's Imprisonment, and shall be prohibited to row any more upon the *Thames* for a Year and a Day after.

The Court of Aldermen shall assess the Fares of Court of Aldermen to assess the Rates of Watermen (which being subscribed by two of the Privy Council at least) shall be set up in *Guild Hall*, *Westminster Hall*, &c. and the Waterman that takes more than according to the Fare so assessed, shall for every such Offence, suffer Half a Year's Imprisonment, and forfeit 40 s. to be divided as before.

By Stat. 1 Jac. 1. c. 16. no Waterman was to retain any Apprentice or Servant not Eighteen Years old, nor for less Time than Seven Years, unless Watermen's Sons Sixteen Years old, trained up to Rowing.

The Eight Overseers shall yearly upon the First Orders of Rules, &c. to be read twice a Year, &c. Day of *March*, and the First Day of *September*, cause to be read openly in their common Hall, all their Orders made, or to be made, on Pain that every of them for every Default, shall forfeit Twenty Nobles, to be divided between the King and Prosecutor.

By Statute 4 & 5 Ann. c. 19. in Case such Number of Watermen, Bargemen, and Lightermen, working between *Gravesend* and *Windsor*, as the Lord High Admiral or Commissioners of Admiralty shall give Notice to the Company of Watermen from Time to Time to be necessary, (being summoned by Notice in Writing, at their usual Abode, by the Company) within Ten Days after, shall not appear before the Watermen's Company, to be sent to his Majesty's Fleet, the

Persons summoned being convicted before the Lord Mayor of London and Court of Aldermen, or two Justices of the City, and two Rulers of the said Company, shall suffer one Month's Imprisonment, and be disabled working on the *Thames* for two Years. 4 & 5 Ann. c. 19.

Clause about Apprentices, repealed.

And by Statute 4 & 5 Ann. c. 13. the Clause or Clauses in 1 Jac. 1. c. 16. that restrains Taking Apprentices till of Eighteen, and the Son of a Waterman till of Sixteen Years of Age; and the Rules and Orders made by Virtue of 11 & 12 W. 3. c. 21. by the Wherry-men and Lightermen, and all other Rules and Orders for restraining Watermen, Wherry-men, and Lightermen, Free of the Company, from taking and breeding Apprentices, shall be void.

Court of Aldermen have Power to amend By-Laws.

The Court of Lord Mayor and Aldermen of London, are authorised to alter and amend By-laws relating to the Company of Watermen and Lightermen. The Amendments to be approved of by the Chief Justice.

*The Rates and Fares of Watermen, set forth by the Lord Mayor and Court of Aldermen.*

|                                                                                                                                     | Oars. | Skull. |
|-------------------------------------------------------------------------------------------------------------------------------------|-------|--------|
|                                                                                                                                     | s.    | d.     |
| From London-Bridge to Lime-House, }<br>New Crane, Shadwel-Dock, Bell-Wharf, }<br>Ratcliff-Cross. ————— }                            | 1 0   | 0 6    |
| To Wapping-Dock, Wapping New, and }<br>Wapping Old Stairs, the Hermitage, Rother- }<br>hith, Church-Stairs, and Rotherith Stairs. } | 0 6   | 0 3    |
| From St. Olave's to Rotherith Church- }<br>Stairs, and Rotherith Stairs ————— }                                                     | 0 6   | 0 3    |
| From Billingsgate and St. Olave's to St. }<br>Saviour's Mill ————— }                                                                | 0 6   | 0 3    |
| All the Stairs between London-Bridge }<br>and Westminster ————— }                                                                   | 0 6   | 0 3    |
| From either Side above London-Bridge }<br>to Lambeth and Vaux-Hall ————— }                                                          | 1 0   | 0 6    |
| From White-Hall to Lambeth and Vaux- }<br>Hall ————— }                                                                              | 0 6   | 0 3    |
| From Temple, Dorset, Black-Fryars Stairs }<br>and St. Paul's Wharf to Lambeth ————— }                                               | 0 8   | 0 4    |
| Over the Water directly, betwixt Lon- }<br>don-Bridge and Lime-House, or London- }<br>Bridge and Vaux-Hall. ————— }                 | 0 4   | 0 2    |



## Oars.

|                                    | Whole<br>Fare. | Com-<br>pany. |  |
|------------------------------------|----------------|---------------|--|
|                                    | s. d.          | s. d.         |  |
| From London to Gravesend           | 4 6            | 0 9           |  |
| Grays, or Greenhithe               | 4 0            | 0 8           |  |
| Barfleet, or Eriff                 | 3 0            | 0 6           |  |
| Woolwich                           | 2 6            | 0 4           |  |
| Blackwall                          | 2 0            | 0 4           |  |
| Greenwich or Deptford              | 1 6            | 0 3           |  |
| Chelsey, Battersea, Wansworth      | 1 6            | 0 3           |  |
| Putney, Fulham, Barnelmes          | 2 0            | 0 4           |  |
| Hammersmith, Chiswick, Mortlock,   | 2 6            | 0 6           |  |
| Brentford, Isleworth, Richmond,    | 3 6            | 0 6           |  |
| Twickenham                         | 4 0            | 0 6           |  |
| Kingston                           | 5 0            | 0 9           |  |
| Hampton-Court                      | 6 0            | 1 0           |  |
| Hampton-Town, Sunbury, and Walton, | 7 0            | 1 0           |  |
| Weybridge and Chertsey             | 10 0           | 1 0           |  |
| Stanes                             | 12 0           | 1 0           |  |
| Windsor                            | 14 0           | 2 0           |  |

## Rates for carrying Goods in the Tilt-Boat, between Gravesend and London.

|                                                         | l. | s. | d. |
|---------------------------------------------------------|----|----|----|
| A Half Firkin                                           | 0  | 0  | 1  |
| A Whole Firkin                                          | 0  | 0  | 2  |
| A Hoghead                                               | 0  | 0  | 2  |
| A hundred Weight of Cheese, Iron, or<br>any heavy Goods | 0  | 0  | 4  |
| A Sack of Salt or Corn                                  | 0  | 0  | 6  |
| And ordinary Chest or Trunk                             | 0  | 0  | 6  |
| An ordinary Hamper                                      | 0  | 0  | 6  |
| The Hire of the whole Tilt-Boat                         | 1  | 2  | 6  |
| Every single Person in the ordinary Passage             | 0  | 0  | 6  |

**Watermen. Wax.**

What Waterman takes or demands more than these Rates, lies liable to pay Forty Shillings, and suffer Half a Year's Imprisonment.

And if he refuse to carry any Passenger or Goods at these Rates, upon Complaint made to the Lord Mayor and Court of Aldermen, he will be suspended from his Employ for Twelve Months.

**A Permit or Licence from a Justice of Peace for travelling on the Lord's Day.**

29 Car. 2. c. 7. Middl. H. **I** J. S. Esq; one of his Majesty's Justices of Peace for the said County, do hereby allow L. M. Gent. and A. B. and C. D. two Watermen of, &c. in the said County, to pass and repass on the River of Thames with their Boat on, &c. next, being the Lord's Day, without Molestation or Disturbance. Witness my Hand, &c.

**Wax.**

Wax-chandlers must get but 4 d. per Pound.

**B**Y Stat. 11 H. 6. c. 16. no Wax-chandler shall sell or put to Sale any Candles or other Wares made of Wax at a dearer Rate than that he may have only 4 d. in every Pound of Wares above the common Price of plain Wax, on Pain to forfeit all such Ware put to Sale, and the Value of them sold, and besides to make Fine to the King.

Every Justice has Power to examine these Offences.

Every Justice of Peace, Mayor, Bailiff, and Steward of Franchises, have Power to examine and search concerning the Breach of this Law, and also to hear and determine the Offences committed against it.

Nothing to be mixed with Wax.

By Stat. 23 El. c. 8. none in mingling or making of Wax, shall use or cause to be used any Deceit by Mixture or mingling the same with Rosin, Tallow, Turpentine, or other deceitful Thing, to the Intent to sell it or put it to Sale, on Pain to forfeit the same. And if such deceitful Wax happen to be sold before it be discovered, the Melter or Procurer thereof shall forfeit for every Pound thereof 2 s. to be divided between the King and the Party deceived, if he will sue, but if not, then the Prosecutor.

Every

Every Melter and Maker up of unwrought Wax, shall have a Stamp or Mark of the Breadth of Sixpence, wherein the two Letters of his Name and Surname shall be graven, and with this shall stamp every such Piece of Wax triangularly in three Places, upon the Outside of every such Piece, on Pain to forfeit the Value of every Piece sold or put to Sale, not so stamped. Wax-chandler must have his Mark.

This Act not to extend to any Selling the Wax of their own Bees in open Markets, nor to any Servant mingling or corrupting Wax by the Command of his Master, so as he does confess them.

None to counterfeit or stamp with another's Mark, without the Owner's Consent, on Pain to forfeit 5 s. to be divided as before, and if not able to pay it, to be set on the Pillory in the next Market-Town, and to suffer Three Months Imprisonment, without Bail. Stamping with another's Mark forfeits 5 s.

Weavers. See Cloth.

NONE using the Trade, of Cloth making, out of a City or Borough, &c. shall keep above one Loom in his Possession, or make Profit of setting and letting of a Loom, on Forfeiture of 20 s. by 2 & 3 P. & M. c. 11. Weaver out of a City shall keep but two Looms.

No Woollen Weaver, living out of a City, &c. shall keep above two Looms, or make Profit by any other Loom, or forfeit 20 s. *Ibid.*

None using the Trade of a Weaver, and not Cloth-making, shall keep a Tucking Mill, or use the Trade of Tucker, Fuller, or Dyer, or forfeit for every Week 20 s. *Ibid.* Nor keep a Tucking-Mill.

No Fuller or Tucker shall keep a Loom, or make Profit thereby, on Forfeiture of 20 s. for every Week. *Ibid.*

None shall use the Trade of a Weaver, &c. except he hath been an Apprentice to the Trade Seven Years. *Ibid.*

The Forfeitures to be divided between the King and the Prosecutor. This Act not to extend to the Counties of York, Cumberland, Westmoreland, and Northumberland.



## Weavers. Weers.

No Woollen Weaver, living out of a City, &c. shall take any Apprentice, &c. except his own Son, or such a one whose Parent hath 3*l.* per Ann. in Lands; and for every three Apprentices, shall keep one Journeyman. 5 *El.* c. 4.

Clause of 5 *El.* c. 4. repealed.

But the Stat. of 5 & 6 *W. & M.* c. 3. hath repeal'd this Clause of 5 *El.* c. 4. concerning the taking Apprentices in the Woollen Manufactures.

## Weers.

One Justice may view and alter Weers.

**W**EERS in Rivers may be viewed by one Justice of Peace, and he may cause them to be made of a reasonable Wideness. *Lamb.* 194.

Any Making Weers within five Miles of the Mouth of any Haven or Creek, or by them destroying any Fry of Fish of the Sea, forfeits Ten Pounds, one Moiety to the King, the other to the Informer. 3 *Jar.* 1. c. 12.

## Weights and Measures.

Statutes about Weights and Measures.

**T**HE Statutes which relate to Weights and Measures, are *Magna Charta* 25. *Affisa panis & cerevisie* 51 *H.* 3. Statute *de Ponderibus & Mensuris*, Statute 51 *H.* 3. of Pillory and *Tanbrek*. Statute *de Pistoribus*, 31 *E.* 1. and 14 *Ed.* 3. c. 12. 25 *Ed.* 3. c. 5 & 10. 27 *E.* 3. c. 10. 34 *E.* 3. c. 5. 13 *R.* 2. c. 9. 15 *R.* 2. c. 4. 16 *R.* 2. c. 3. 1 *H.* 5. c. 10. 2 *H.* 6. c. 11. 8 *H.* 6. c. 5. 9 *H.* 6. c. 6. 9 *H.* 6. c. 8. 11 *H.* 6. c. 8. 7 *H.* 7. c. 4. 11 *H.* 7. c. 4. 12 *H.* 7. c. 5. 28 *H.* 8. c. 14. 16 & 17 *Car.* 1. c. 19. 22 *Car.* 2. c. 8. 22 & 23 *Car.* 2. c. 12.

By these Statutes every Measure shall be according to the King's Standard; and whosoever acts contrary shall, on Complaint made, be punished by the Quarter-Sessions, or by two Justices. 25 *E.* 3. c. 10. 34 *Ed.* 3. c. 6. and 11 *H.* 7. c. 4.

There

There shall be one Weight, one Measure, and one Yard, throughout the whole Realm. Every thing to be weighed by a Balance, the Founge of the Balance to be even without bowing to one Side or other, and without touching it: He who does to the Damage of the Seller, shall forfeit to the King the Value of the Goods weighed or measured. Party that complains, shall have the Quadruple of that which he shall be endamaged. Trespasser, one Year's Imprisonment, to be ransomed at the King's Will. Justices may enquire of and determine such Trespases. 27 E. 3. cap. 10.

King's Purveyor, or any other, buying or taking any other Measure of Corn than eight Bushels striked for the Quarter, forfeit 5 l. to the King, and as much to the Party grieved, with one Year's Imprisonment. 1 H. 5. c. 10.

Persons importing or making any Vessels for Wine less than 252 Gallons *English Measure* for a Ton, the Pipe 126 Gallons, Barrel of Herrings or of Eels 30 Gallons, and But of Salmon 84 Gallons, forfeit the same to the Lord of the Town where, &c. Prosecutor to have the fourth Part; to be heard and determined by Justices at Quarter-Sessions. 2 H. 6. c. 11.

Every City, Borough and Town within *England*, that has not a common Balance with common Weights sealed, according to the Standard of the Exchequer, at the Costs of the City, &c. in the keeping of the Head Officer or Constable, shall forfeit 10 l. Borough 5 l. and every other Town 40 s. to the King. Inhabitants to weigh *gratis*: Foreigners to pay for 40 Pounds, or under, a Farthing; for between 40 and 100 Pounds a Half-penny; for between 100 and 1000 Pounds a Penny, towards maintaining the Weights. 8 H. 6. c. 5.

Restrained only to Market-Towns, or Towns Corporate, by 11 H. 7. c. 4.

In every City, Borough and Town, there shall be a Bushel sealed, on the Penalty of 10 l. for a City, &c. and for a Borough 5 l. and for a Town where a Constable is, 40 s. 11 H. 6. c. 8.

Mayor or chief Officer in Cities and Boroughs, shall have a special Mark wherewith the Measures and Weights shall be sealed, and shall take for sealing a Bushel one Penny; every other Measure a Half-penny; 100 Weight a Penny; Half a 100 Weight a Half-penny; every less Weight a Farthing: Refusing

There shall be one Weight and one Measure and one Yard, throughout the whole Realm. 27 E. 3. c. 10.

1 H. 5. c. 10.

The Measure of a Ton, &c. 2 H. 6. c. 11.

Forfeiture of a City, &c. not having a Balance.

8 H. 6. c. 5.

And a Bushel,

What the Mayor, &c. must take for sealing, &c. 7 H. 7. c. 4.

And twice a Year, or oftener, must examine Weights, &c.

One Weight and Measure shall be delivered in such Cities and Market-Towns as are mentioned in the Act, according to the Standard of the Exchequer, from which others shall be made and marked.

Mayor or other Head Officer of every City, Town, &c. shall twice every Year examine Weights and Measures; if found defective, to be immediately broke and burnt, and shall pay 6s. 8d. for the first Offence, to the Officer who hath Jurisdiction in that Behalf; second Offence 13s. 4d. third Offence 20s. and to be set in the Pillory withal. Two Justices (Quor. one) have Power to punish Defaults of Mayors, &c. and also of Buyers and Sellers doing contrary to this Act, and to set Fine at Discretion.

12 H. 7. c. 4. Exception for selling on Ship-board. 11 H. 7. c. 4.

Forfeiture of keeping false Weights or Measures.

16 Car. 1. c. 19.

Persons selling or buying, or keeping any Weight or Measure not according to the Standard of the Exchequer, forfeit 5s. to the Poor by Distress and Sale; in Default, to be committed till Payment. Conviction by one Witness before one Justice. Clerk of the Market, or other Officer, that seals any Weight or Measure not according to the Standard, or refusing to seal, &c. forfeit 5l. Conviction, &c. as before. Officer taking any Fine, Fee or Reward, more than allowed by the Statute or ancient Custom for Signing and Examining, &c. forfeit for the first Offence 5l. second 10l. and for every other 20l. Conviction as before, 16 Car. 1. c. 19.

If any Officer authorized to execute this Statute shall be impleaded for any Act he shall do therein, he shall plead the general Issue, Not guilty, and may give this Statute or any other special Matter in Evidence; and if he be found Not guilty, or the Plaintiff be Nonsuited, he shall recover treble Costs. 16 Car. 1. c. 19.

Nor to sell Corn or Salt by the Bay, or shake the Bushel.

16 Car. 1. c. 19.

No Person shall buy or sell any Corn or Salt by the Bay without measuring, nor shake the Bushel; and if any sell Corn or Grain or Salt by other Bushel or Measure than according to the Standard, and the Bushel stricken even by the Brim, and sealed according to Law, shall forfeit 40s. to be levied in such Manner, and such Penalties to be inflicted for Want of Distress, as by 17 Car. 1. c. 19. is directed by Warrant of a Justice of Peace.



If Head Officers of Cities, &c. wilfully suffer any to sell or buy Corn, or Grain or Salt by other Measure, or in other Manner than this Act directs, or, on Complaint, shall not punish and reform the same, upon Conviction thereof at the General Sessions of the Peace, shall forfeit  $\text{\textit{s}}\text{\textit{l}}$ . one Moiety to the Informer, the other to the Poor of the Parish where the Offence was committed, to be levied by Distress and Sale, and, for Want thereof, by Imprisonment, till Payment.

If the Clerk of the Market of the King's House within the Verge, or others authorized by Law to mark or seal Measure, within their respective Jurisdictions, shall refuse, being required to seal any Bushel, &c. duly gauged, they forfeit for the first Offence  $\text{\textit{s}}\text{\textit{l}}$ . and for every other  $\text{\textit{s}}\text{\textit{l}}$ . to be levied as aforesaid; Or if the said Clerk of the Market take more than the accustomed Fees; or if others take more than one Penny for sealing and marking a Bushel, than one Half-penny for an Half-bushel or Peck, or than one Farthing for any Measure containing one Gallon, Pottle, Quart, Pint, or Half-pint, they shall incur the Penalties contained in the said Statute of 17 Car. 1. c. 19.

By Stat. 22 Car. 2. c. 8. at their Charge who shall have the Toll or Profit of the Market, where no Toll is within any City, Corporation or Market-Town, there shall be one Measure of Brass provided and chained in the Publick Market-place, on Pain to forfeit  $\text{\textit{s}}\text{\textit{l}}$ . one Moiety to the Poor of the Parish, the other to the Prosecutor, to be recovered and levied as by this Act is directed.

Constables may search and examine if any use other Measures, or strike them in other Manner than this Act directs; and if they find any unsealed Measure, may break the same; and for that and every other Offence against this Act, shall present the Offender at the next Quarter-Sessions.

None punished by Virtue of this Act, shall be questioned for the same Offence by Virtue of any other Act.

No Person shall buy or sell any Corn or Salt by the Bay without measuring, nor shake the Bushel, on Forfeiture of the Corn, &c. besides the Penalty in 22 Car. 2. cap. 8.

On Complaint made to any Justice of any Corn, &c. being sold or bought contrary to this Act, the Defendant

A Measure of Br. is to be provided by those who have the Profit of the Market.

22 Car. 2. c. 8.

No Person must buy Corn or Salt by the Bay, or shake the Bushel, &c. 22 & 23 Car. 2. c. 12.

dant must make it appear by Oath of one or more Witnesses, that he or they did sell or buy the same in every Respect, according to this and the former Act. Penalty to the Poor and Informer, on Conviction by one Justice, by Distress and Sale. Rent Corn and Tithe Corn are excepted. 22 & 23 Car. 2. c. 12.

And by Stat. 1 W. & M. c. 34. no Retailer of Wines shall utter them, other than in Measures made of Pewter, and seal'd according to the Statute, on Pain to forfeit 5*l.* for every such Offence to the Informer, to be recovered by Action of Debt, Bill, Plaint or Information, &c.

All Retailers of Beer and Ale must sell in sealed Measure.

11 & 12 W. 3.

Inn-keepers, Alehouse-keepers, and Retailers of Beer, shall sell the same by Standard-Measure in marked Vessels, on Penalty of not less than 10*s.* nor more than 40*s.*

Collector of Excise not providing Ale Quarts and Pints of Brass, according to the Standard-Measure, forfeits 5*l.* Mayor or Chief Officer, in every Corporate or Market Town, &c. for such Neglect, forfeit the same. 11 & 12 W. 3. c. 15. But this extends not to the Universities, by 13 W. 3. c. 11. Mayor, &c. to cause all sized Measures to be marked with W. R. and a Crown, on Penalty of 5*l.* to the Poor and Prosecutor. Conviction by Oath of one Witness before one Justice of, &c. where, &c. within thirty Days, by Distress, &c. deducting Charges. Justices to give this Act in Charge every Quarter-Sessions.

1 Ann. c. 15.

Measure called Water-Measure, shall be round, and in Diameter 18 Inches and a Half within the Hoop, and 8 Inches deep, and so in Proportion for a greater or lesser Measure. Apples and Pears to be sold by Water-Measure, and shall be heaped, on Penalty of 10*s.* for any selling by other Measure, to the Poor and Informer, by Oath of one Witness, before any Justice, &c. by Distress and Sale, (on Refusal of Payment) not to extend to sealed Measures allowed by the Fruiterers Company of London, or within three Miles. 1 Ann. c. 15.

It was resolved by all the Justices, M. 39 & 40 El. that if the Clerk of the Market take any Fee for examining or viewing only, and not finding Defect, nor sealing the same, 'tis Extortion. Moor's Reports 523.

The Judges of Assize, and of Oyer and Terminet, may and do inquire of false Weights and Measures. Co. 4 Inst. c. 61.

The

The Justices of Peace may, in their Sessions, inquire of, hear and punish, the Offences of Bakers, Brewers, Vintners, Cooks, Butchers and others, that offend in the Weight, Measure or Price, of their Bread, Beer, Meat or the like, the Butchers that sell unwholsome Meat, &c.

Two Justices of Peace (one being of the *Quorum*) may, by Examination or Inquiry, hear and determine the Faults of Head Officers in Cities, Boroughs and Market-Towns, that do not twice every Year view and examine all Weights and Measures in their Towns, &c. and do not break and burn the defective.

Also two such Justices may, by Examination or Inquiry, hear and determine the Faults of all Buyers and Sellers, which do not buy and sell with lawful Weights and Measures: Also the said Justices may break and burn all defective Weights and Measures.

The said Justices may fine all and every the Offenders aforesaid by their Discretion, and make Process against them, as if they were indicted of Trespas against the Peace.

Any one Justice of Peace, Mayor, &c. upon Proof by the Oath of one Witness, that a Man hath bought or sold by, or doth keep any other Weight or Measure, whereby any thing is bought or sold, than according to the Standard, may send his Warrant to the Churchwardens and Overseers of the Poor of the Place where the Offence is committed, or one of them, to give them Notice thereof, who are thereupon to levy, by Distress and Sale of Goods, Five Shillings, rendering the Overplus. And if there be no Distress, he may commit the Offender to Prison till he pay the same Forfeiture. So that, by these Means, much of the Power of the Clerk of the Market is taken from him, so that he hath now little to do.

And *Dalton* says, that the Justices may and ought to sit with the Clerk of the Market in the Execution of his Office, and to see that he wrong not the Country.

The Justices of Peace may also, in their Quarter-Sessions, punish many other Offences relating to the making, buying and selling of Provisions for Man and Beast, and punish Butchers, Fishmongers, Inn-keepers, Brewers, Bakers, Poulterers, and other Victuallers who do not sell at reasonable Prices. 17 R. 2. c. 4. 3 E. 6. c. 10. 8 El. c. 8. 13 R. 2. c. 8.

Also



In the Cinque  
Ports Lord  
Warden is to  
order the  
Weights and  
Measures.

And Sheriffs in  
their Tourns.

And Stewards  
of Leets and  
Liberties.

There are two  
Clarks of the  
Market.

Clerk of Mar-  
ket may hold a  
Court, &c.

Also the Inn-keeper or Hostler that takes excessive-  
ly for Hay, or any Kind of Provisions for Man or  
Beast. 13 R. 2. c. 8. 4 H. 4. c. 23. 21 Ja. 1. c. 21.

Within the Cinque Ports the Lord Warden, or his  
Lieutenant, is to order the Weights and Measures.  
11 H. 7. c. 4.

Officers of Corporations are to execute their Offices  
within their Precincts. 16 & 17 Car. 1. c. 19.

Lords of Liberties are to execute their Offices with-  
in their Liberties, as formerly they have done. *Ibid.*

Sheriffs, in their Tourns, do and may enquire of  
false Weights and Measures. Co. 4 Inst. c. 61.

Stewards, in their Leets, may enquire of the Af-  
size of Bread and Ale broken, of the Measures of  
Cloth, of false Measures, of false Balances and  
Weights. And Lords of Leets are therefore to have  
a Pillory and Tunbrel to punish the Bakers and  
Brewers who offend herein, or they may be fined  
for Want of it; yea, perhaps forfeit their Franchises.  
*Crompt.* 141, 148.

There is a Clerk of the Market for the King's  
Houshold, only called *Clericus Mercati Hospitalis Regis*.  
And there is a Clerk of the Market for all other Pla-  
ces, and there are Laws for both of them.

For the first, he is to execute his Office duly, and  
to burn false Weights and Measures.

2. He is to execute his Office within the Verge on-  
ly, and not elsewhere.

3. He is not to ride with above six Horses, and to  
tarry no longer in a Place than Need requires.

4. He is not to take any common Fine, but to pu-  
nish every one according to his Merit. Co. 4 Part  
273.

For the other Clerk of the Market, tho' his Power  
be much lessen'd, as is said before, yet his Office does  
still remain, and he hath a Jurisdiction still.

This Officer hath a Court which he may still keep,  
and hold Plea therein of that which belongs to his  
Office, and, for that Purpose, send out his Process  
and Warrants to the Sheriffs and Bailiffs, to bring a  
Jury before him, and give a Charge, and take a  
Presentment of such as keep not and use not Weights  
and Measures, or buy and sell by other Weights and  
Measures.

But it seems he can inflict no Punishment, nor pro-  
ceed further than to take the Presentment of the Of-  
fenders,

senders, and then impose Fine or Amercement upon them, according to the Statutes. And therefore, what he is to do, and uses to do in this Case, is to deliver in the Estreats of the Things, which touch his Office, into the Exchequer. *Co. 4 Part c. 51.*

But he is to cause all the Weights and Measures to be brought before him. And, among others, of the Pole or Perch, whereby Land is measured, and view and try them; and, for that End, he is to have all his Weights and Measures ready together, with the Marks of the Exchequer, and is to carry and bring them with him when he makes Essay of Weights and Measures; and according to these, the Weights and Measures of every County are to be tried, reformed and regulated.

And cause all the Weights and Measures to be brought before him, and examine them.

But he may not take a common Fine from Men, and so dispense with them for their Offences herein.

Nor can he set Prices upon the Things to be bought and sold in the Market. *Co. 4 Inst. 274, 275.*

For View and Examination only of Weights and Measures, he may take no Fee. *Co. 4 Inst. c. 51.* nor for Bills, &c. But for Sealing and other Matters in his Office, it seems he may take what, Time out of Mind, he hath taken, as incident to his Office, unless as alter'd by 22 *Car. 2. c. 8.* And after he has once sealed, he must not take any thing for the Shewing thereof, or for the Sealing of it again.

Must not take any Fee for sealing twice.

And he ought to seal no Bushel, or other Measures or Weights, but once, (and not yearly as they use to do): And if, after the first Sealing, he shall take any thing for the Sealing thereof again, or for the Shewing thereof, &c. it will be Extortion in him, for which he may be punished. And his Duty is to take Charge of the King's Measures, and to keep the Standard and Patterns of all the Measures that are or may be used thro' the Realm, as of Ells, Yards, Quarts, Potles, Gallons, &c. of Weights, Bushels, &c. and to see that all the Measures in every Place be answerable to the same Standard or Pattern.

Where there is no Clerk of the Market, the Head Officer, or Person having the Profit of the Market, may seal Measures by 22 & 23 *Car. 2. c. 12.*

When Vessels are made contrary to the Statute, unless they are marked with the true and certain Number of the Contents, the Owner shall forfeit the Commodities therein contained to the Lord of the Town.

When Vessels, &c. are forfeited.

Town where found, he allowing the Prosecutor a fourth Part. 11 H. 7. c. 4.

Notwithstanding all this, there are two Weights used, Troy Weight and Averdupois Weight.

And yet, notwithstanding the Statute of *Magna Charta*, c. 25. and all the succeeding Statutes, and all that has been said thereon; there always has been, and still are, two Kinds of Weights used in England; the one called *Troy Weight*, the other *Averdupois Weight*, and both warrantable; the one used by Law, and the other by Custom; and, for the readier Direction of the Justice of Peace herein, I think it will not be improper to set down the just and certain Contents of all (or most Sorts of) Weights and Measures, that so they may the better judge what are lawful or defective, and what not.

What is Troy Weight, and what sold by it.

1. *Troy Weight*, by some called *Libra Medica*, by others, *Libra & uncia Trojana*, hath 12 Ounces to the Pound, or 20 s. *Sterling*, and no more; and by this are weighed Gold, Silver, Pearl, Precious Stones, Silk, Electuaries, Wheat, Amber and Liquors.

What Averdupois Weight, and what sold by it.

2. *Averdupois Weight* from the two French Words (*Avoir* and *du Poids*), which is to say, to have Weight; this is by Custom, yet confirm'd by Stat. 27 E. 3. c. 10. and hereby are weighed all Kind of Grocery Wares, Physical Drugs, Butter, Cheese, Flesh, Wax, Pitch, Tar, Rosin, Tallow, Wools, Hemp, Flax, Lead, Soap, &c. All base Metals and Minerals, as Iron, Steel, Lead, Tin, Copper, Allum, Copperas, &c. and, as it seems, most other Commodities, not before named; especially Things that are garbled, and whereof comes Refuse; this is called *Libra Civilis*, and hath 16 Ounces (or 25 s. *Sterling Weight*) to the Pound, and to every Hundred is allowed 12 Pounds; so that 112 Pounds makes a Hundred Weight, 56 Pounds Half a Hundred Weight, and 28 a Quarter, and 14 Pounds a Stone, or Half a Quarter of a Hundred, &c.



## A Table of Troy Weight.

|       |    |     | Grains |
|-------|----|-----|--------|
|       |    |     | 24     |
|       |    |     | 480    |
| Pound | 12 | 240 | 5760   |

## A Table of Avoirdupois Weight.

|     |    |    |      | Drams |
|-----|----|----|------|-------|
|     |    |    |      | 16    |
|     |    |    |      | 256   |
|     |    |    |      | 7168  |
|     |    |    |      | 28672 |
| Ton | 20 | 80 | 2240 | 35840 |

N. B. 19 C.  $\frac{1}{2}$  make a Fodder of Lead.

The Pound *Troy* is in Proportion to the Pound *Avoirdupois*, as 17 to 14, and the Ounce as 51 to 56, and consequently 11 Ounces *Troy* are equal to 12 Ounces *Avoirdupois*, and 14 Ounces 13 Penny Weights 3 Grains make a Pound *Avoirdupois*.

## A Table of Apothecaries Weight.

|       |    |    |     | Grains |
|-------|----|----|-----|--------|
|       |    |    |     | 20     |
|       |    |    |     | 60     |
|       |    |    |     | 480    |
| Pound | 12 | 96 | 288 | 5760   |

Note, The Apothecaries buy their Drugs by *Avoirdupois*, but sell their Medicines by *Troy Weight*.

## Weights and Measures.

There are three Sorts of Measures. 1. Dry Measure. 2. Liquid Measure. 3. Measure of Longitude, &c.

Mr. Dalton tells us, that 14 Ounces and one Half, and Two-Penny Weight, Troy Weight, do make 16 Ounces of *Avoirdupois* Weight.

And, according to that, the Measures of Corn, according to *Avoirdupois* Weight, are; 14 Ounces and one Half, and Two-Penny Weight, Troy, do make 16 Ounces *Avoirdupois* Weight.

|                               |    |            |            |       |                      |          |
|-------------------------------|----|------------|------------|-------|----------------------|----------|
| <i>Avoirdupois</i><br>Weight. | {  | 7          | Pounds, or | {     | <i>Avoirdupois</i> , | make the |
|                               |    |            | Pints      |       | {                    | Gallon.  |
|                               |    |            | Pounds, or |       |                      | {        |
|                               | 14 | Pints      | {          | Peck. |                      |          |
|                               | 36 | Pounds, or |            | {     | <i>Avoirdupois</i> , | make the |
|                               |    | Pints      | {          |       | Bushel.              |          |

### Measure of Grain according to Troy Weight.

|                                                              |   |                                  |   |                                            |   |                         |
|--------------------------------------------------------------|---|----------------------------------|---|--------------------------------------------|---|-------------------------|
| Troy Weight,<br>and Dry Measure. See Stat.<br>12 H. 7. c. 5. | { | Thirty-two Wheat-Corns           | { | Troy Weight.                               |   |                         |
|                                                              |   | taken in the Midst of            |   |                                            |   |                         |
|                                                              |   | the Ear, weigh one               |   |                                            |   |                         |
|                                                              |   |                                  |   | Penny Sterling                             |   |                         |
|                                                              |   |                                  |   | Twenty Pence Sterling make the Ounce Troy. |   |                         |
|                                                              |   |                                  |   | Twelve Ounces                              | { | Weight, one Pound Troy. |
|                                                              |   |                                  |   | make in Measure, one Pint.                 |   |                         |
|                                                              |   |                                  |   | Two Pints or Pounds make the Quart.        |   |                         |
|                                                              |   |                                  |   | Two Quarts make the Pottle.                |   |                         |
|                                                              |   |                                  |   | Eight Pints                                | { | Make the Gallon.        |
|                                                              |   | Four Quarts                      |   |                                            |   |                         |
|                                                              |   | Two Pottles                      |   |                                            |   |                         |
|                                                              |   | Eight Quarts make the Peck.      |   |                                            |   |                         |
|                                                              |   | Sixty-four Pints                 | { | Make the Bushel or Firkin.                 |   |                         |
|                                                              |   | Thirty-two Quarts                |   |                                            |   |                         |
|                                                              |   | Eight Gallons                    |   |                                            |   |                         |
|                                                              |   | Four Pecks                       |   |                                            |   |                         |
|                                                              |   | Sixteen Gallons                  | { | make the                                   |   |                         |
|                                                              |   | Two Firkins                      |   |                                            |   |                         |
|                                                              |   | Kilderkin, Half Barrel, Rundlet. |   |                                            |   |                         |
|                                                              |   | Two Hundred fifty-six Pints      | { | make the                                   |   |                         |
|                                                              |   | One Hundred twenty-eight Quarts  |   |                                            |   |                         |
|                                                              |   | Thirty-two Gallons               |   |                                            |   |                         |
|                                                              |   | Four Firkins                     |   |                                            |   |                         |
|                                                              |   | Two Kilderkins                   |   |                                            |   |                         |
|                                                              |   | Four Bushels                     |   |                                            |   |                         |
|                                                              |   | Comb, or Barrel.                 |   |                                            |   |                         |

Troy

Five Hundred and twelve Pints -  
 Two Hundred fifty six Quarts -  
 Sixty-four Gallons -  
 Eight Firkins -  
 Four Kilderkins -  
 Two Barrels -  
 Eight Bushels -  
 Five Quarters make a Wey.  
 Two Weys make a Last.  
 So the Pint and Pound,  
 Firkin and Bushel,  
 Barrel and Comb,  
 Hoghead and Quarter,

Troy Weight,  
 and Dry  
 Measure.

make the } Quarter,  
 or  
 Hoghead.

Are of the like  
 Content.

The Bushel must contain eight Gallons or sixty-four Pounds or Pints of Weat. 31 Ed. 1. 12 H. 7. c. 5.

Eight Bushels stricken make a Quarter of Corn. 11 H. 7. c. 4. 25 E. 3. c. 10.

A Bushel, Water-Measure, contains five Pecks; some make six Quarters of Meal a Wey, and one Wey three Quarters a Last.

## A Table of Dry Measures.

|      |       |       |       |         | Quarts | Pints |
|------|-------|-------|-------|---------|--------|-------|
|      |       |       |       |         | 2      | 4     |
|      |       |       |       | Pottles | 2      | 4     |
|      |       |       | Gall. | 2       | 4      | 8     |
|      |       | Pecks | 2     | 4       | 8      | 16    |
|      | Bush. | 4     | 8     | 16      | 32     | 64    |
| Qrs. | 8     | 32    | 64    | 128     | 256    | 512   |
| Wey  | 5     | 40    | 160   | 320     | 640    | 1280  |
| Last | 2     | 10    | 80    | 320     | 640    | 1280  |

But Note, That in many Places and Counties the Measure of Corn doth much differ, and the Bushel in one Place is greater than in another.

And yet in the Measure of Corn, *Consuetudo Locis est observanda*, if it be a Custom exceeding all Memory, and used without any lawful Interruption; for such Time and Usage sufficeth for a Law; tho', regularly, Custom or Prescription against a Statute, is not good, except that such Custom and Prescription be also confirmed



## Weights and Measures

firmed by Statute, or that they be saved by another Statute. *Dalt.* 365.

*Liquid Measure.*

Wine,  
Oil, and } Their Measures are all one.  
Honey, }

Two Pints }  
Two Quarts } make a }  
Two Pottles } Quarr.  
                  } Pottle.  
                  } Gallon.

*Vid.* 23 *El. c.* 8.

A Rundlet }  
A Barrel }  
A Tierce or Awm } is }  
A Hoghead } 18 }  
A Pipe or Butt } 32 } Gallons  
                  } 42 }  
                  } 63 }  
A Tun — } 126 }  
                  } 252 }

*Ale Measures.*

|         | Pints   |    |    |    |
|---------|---------|----|----|----|
|         | Quar.   |    |    |    |
|         | Pottles |    |    |    |
|         | Gall.   |    |    |    |
| Firk.   | 8       | 16 | 32 | 64 |
| Kild.   | 2       | 16 | 32 | 64 |
| Barrels | 2       | 4  | 32 | 64 |

*Beer Measures.*

|         | Pints   |    |    |    |
|---------|---------|----|----|----|
|         | Quar.   |    |    |    |
|         | Pottles |    |    |    |
|         | Gall.   |    |    |    |
| Firk.   | 9       | 18 | 36 | 72 |
| Kild.   | 2       | 18 | 36 | 72 |
| Barrels | 2       | 4  | 36 | 72 |

Coopers must make their Vessels of these Measures, or set a Mark upon them when they are otherwise. And the Brewer must sell by these Measures, and not otherwise. 23 *H.* 8. c. 4.

The

The Wardens of Coopers, in all Cities, &c. where there are such Wardens; and in all other Towns or Boroughs, the Mayor, Sheriff, Bailiff, Constable, or other Head Officer, may search and gage all such Vessels, &c. whether they be of such Sizes as afore-said; and if they find any defective, they may mark or amend the same, or else cause the same to be burn'd. *Ibid.*

The Barrel, Half Barrel, and Firkin of Soap, shall be of the same Measure with Ale. And the empty Barrel must weigh twenty-six Pounds, the empty Kilderkin thirteen Pounds, and the empty Firkin six Pounds and a half. *Ibid.*

## Measures of Longitude, &c. or Land Measure.

Three Barley Corns make one Inch, and four Inches a Handful. 27 H. 8. c. 6. Three Feet nine Inches, an Ell; Five Feet, a Geometrical Pace; Six Feet, a Fathom.

|          |       |       |      | Inches |
|----------|-------|-------|------|--------|
|          |       | Feet  |      | 12     |
|          |       | Yards | 3    | 36     |
|          | Poles | 5½    | 16½  | 198    |
| Furlongs | 40    | 220   | 660  | 7920   |
| Miles    | 8     | 320   | 1760 | 5280   |
|          |       |       |      | 63360  |

In this Table the Pole or Perch is computed to be 16 Feet and one Half, which is the Statute Measure; but there are some customary Measures which are more: As for Fens and Woodlands, they reckon 18 Feet to the Pole, and for Church-Lands 21. For Forest 21, and in some Places 24.

## Weights and Measures.

## Superficial or Square Measures.

|       |       |       | Yards. | Feet     |
|-------|-------|-------|--------|----------|
|       |       | Poles | 39     | 272      |
|       | Roods | 40    | 1216   | 10890    |
|       | Acres | 4     | 160    | 4840     |
|       |       |       |        | 43560    |
| Miles | 640   | 2560  | 102400 | 3097600  |
|       |       |       |        | 27878400 |

In this Table, you have in a Square Mile 640 Square Acres, 2560 Square Roods, &c. In a Square Acre 4 Square Roods, 160 Square Poles, &c. In a Square Pole 31 one Quarter Square Yards, and 272 one Quarter Square Feet, and in a Square Yard 9 Square Feet. Which being rightly understood, all these Tables of Reduction are sufficiently explained.

Clerk of the  
Market may  
enquire of the  
Pole, &c.

*Note.* The Clerk of the Market may enquire of the Pole or Perch, whereby Land is measured, as well as of other Measures. *Crompt. Ant. des Courts* 221. But the Justices of Peace are not to meddle therewith, especially out of Sessions. *Dalt.* 370.

What an Acre  
is.

An Acre is said to be a certain Quantity of Land, containing in Length 40 Perches, and 4 in Breadth, or that Quantity be the Length more or less. And so if a Man erect a new Cottage, he is to lay four Acres of Land to it after this Measure, by 31 *El. c. 7.* And in the Statute made of Sowing of Flax, 24 *H. 8. c. 14.* Eightscore Perches made an Acre, which is 40 multiplied by 4. See the Ordinance *de terris mensurandis*, 34 *E. 1. Stat. 1.* But some say an Acre is as much as may be ploughed in one Day by a Yoke of Oxen.

What a Hide  
of Land.

A Hide of Land, or Carve of Land, or Plow-Land, (which are all one) was formerly 100 Acres, now 80 Acres.

What a Plow-  
land.

Some say every Plow-land contains commonly 120 Acres, and every Plow-land is four Yard-land: Every Yard-land contains 30 Acres; and yet, after some Computations, every Yard-land contains but 20 Acres, and in some Places 24 Acres, as in some Parts of *Cambridgeshire*. *Librata terra* contains 4 Oxgangs, and every Oxgang 13 Acres.

What a Ridge  
of Land, &c.

A Selion, otherwise called a Ridge of Land, is of no certain Quantity, but sometimes contains Half an Acre, sometimes more, sometimes less.



A Yard-land is either 20, 24 or 30 Acres, according to the Estimation of the different Countries; and therefore it is that a *Fine de Virgata Terra* is not good, but void for Incertainty. But an Acre of Land is certain by the Statute *de terris mensurandis*: *Ed. Lit. 89.*

But as to all these Quantities, the Custom and Practice of the Country therein, except it be very unreasonable, (as is said before) is to be observed. And therefore, in the Measure and Estimate of Lands, and in all Contracts for Lands and other Things, as in the Buying or Selling any thing by the Tod, Tun, Bushel, Yard, Ell, or the like; and in all Grants of Land, as a Hide, Oxbang, Selion or Acre of Land, the Estimate shall be according to the usual Estimate of the Place where the Thing contracted for lies, and where the Parties contracting live and do make their Contract.

Other Things are numbered and sold after this Manner. Allom, Cinnamon, Nettles, Pepper and Sugar, have but 13 Pounds and a Half to the Stone, or half Quarter of a Hundred, 27 Pounds to the Quarter, 54 Pounds to the Half, and 108 Pounds to the whole Hundred, tho' sold by *Abbirdupois* Weight.

In *Essex* Butter and Cheese are weighed by the Clove or Half Stone, allowing 8 Pounds to each Clove, and 32 Cloves, or 256 Pounds, to the Weigh. Wool is sold by the Clove, allowing but 7 Pounds to the Clove, 14 Pounds to the Stone, 28 Pounds to the Tod, 182 Pounds to the Wey, or 6 Tod and one Half, 354 Pounds to the Sack, and 4208 Pounds to the Last. A Faggot of Steel is 120 Pounds. A Barthen of Gad-Steel is 9 Score, or 180 Pounds. 56 Pounds of Butter, or 60 Pounds of Soap, make a Firkin, and 4 Firkins of either make a Barrel; for Butter must be measured as Soap. 14 Car. 2. c. 28.

Butchers allow but 8 Pounds to the Stone in selling Flesh.

Cattle, Sixscore make a Hundred.

A Bin of Skins consists of 33 Skins.

Coals, a Sack is three Bushels.

A Chest of Fustian consists of 14 Ells.

A Chest of Sindon of 10 Ells.

All Sorts of Sea-Coals brought into the Thames must be sold by the Chalder, containing 30 Bushels heaped. And all other Coals commonly sold by Weight, after 112 Pounds to the Hundred, on Pain to forfeit all the Coals, and the double Value thereof. 16 & 17 Car. 2. c. 2.

# Weights and Measures.

Every Chalder is to weigh at *Newcastle* 5300l. Weight.  
Every Wain-Load must be 1700 Pounds and a Half;  
and every Cart 800 Pounds and three Quarters.

6 & 7 W. 3. c. 10.

A Dicker of Gloves is 10 Pair.

A Dicker of Horse-shoes consists of 10 Horse-shoes.

A Dozen of Gloves is 12 Pair.

A Dozen of Iron is six Pieces.

Hemp, 20 Pounds make a Stone. 21 H. 8. c. 12.

Hard-Fish, Eight-score make the Hundred.

Herrings, a Barrel must be 32 Gallons. 11 H. 7.  
2. 23. & 13. El. c. 11. If sold by Tale, then 120 go  
to the Hundred.

Hides of A Dicker is 10 Hides.

Leather, - 20 Dickers is a Last, or 200 Hides.

Hops, 112 Pounds make the Hundred.

Last is ten Thousand.

5 Foot in Length,  
Laths must be 2 Inches broad, and  
Half an Inch thick.

Linen Cloth or Canvas, a Hundred consists of 100  
Ells, and every Hundred contains Sixscore.

Nails, Pins, &c. and all other headed Things, are  
sold 120 to the Hundred.

All other Things have but Fivescore to the Hundred.

10 Reams or 200 Quires make a Bale.

Paper, A Ream is 20 Quires or 500 Sheets.

A Quire is 25 Sheets.

Parchment A Dozen is 12 Skins.

and Vellum, A Roll is 5 Dozen or 60 Skins.

Salmon, the Butt is 84 Gallons. 11 H. 7. c. 23. 13  
El. c. 11. 16 H. 6. c. 17.

Seem of Glas contains 24 Stone, and every Stone  
5 Pounds; so it is 120 Pounds.

Tiles, 120 make the Hundred.

Timber hewed and squared, 50 Foot is a Load.

Tymber of Coney-Skins and Greys, is 40 Skins.

Of Cheese in *Suffolk*, is 250 Pounds.

Weigh In *Essex* 300 Weight, after the Rate of 112  
Pounds to the Hundred.

A Stone is 14 Pounds.

Tod is 28 Pounds.

Wool Sack is 26 Stone. 11 H. 7. c. 4. or 364 Pounds

Weigh is 182 Pounds, or six Tod and 1 Half.

In every Principal or Shire Town at least there  
ought to be kept Standards of Brass for Weights and  
Measures, by 11 H. 7. c. 4. 12 H. 7. c. 5.

Which

Which Towns are as follows:

Bedfordshire, Town of Bedford.  
Berkshire, Town of Reading.  
Bristol, the same Town.  
Bucks, the Town of Buckingham.  
Cambridge, the University of Cambridge.  
Cheshire, the City of Chester.  
Cinque-Ports, the Castle of Dover.  
Cornwall, the Town of Lestrythiel.  
Cumberland, the City of Carlisle.  
Derby, the Town of Derby.  
Devon, the City of Exeter.  
Dorset, the Town of Dorchester.  
Essex, the Town of Chelmsford.  
Gloucester, the City of Gloucester.  
Hampshire, the City of Winchester.  
Hertford, the Town of Hertford.  
Hereford, the City of Hereford.  
Hunt, the Town of Huntingdon.  
Kent, the Town of Maidstone.  
Lancast, the Town of Lancaster.  
Leicester, the Town of Leicester.  
Lincoln, the City of Lincoln.  
London, the same City.  
Middlesex, the City of Westminster.  
Norfolk, the City of Norwich.  
Northampt, the Town of Northampton.  
Northumberland, the Town of Newcastle.  
Notting, the Town of Nottingham.  
Oxford, the University of Oxford.  
Rutland, the Town of Uppingham.  
Shropshire, the Town of Shrewsbury.  
Stafford, the Town of Stafford.  
Somerset, the Town of Ilchester.  
Southampt, the same Town.  
Suffolk, St. Edmund's Bury.  
Surrey, the Town of Guilford.  
Sussex, the Town of Lewes.  
Warwick, the City of Coventry.  
Westmoreland, the Town of Appulby.  
Wiltshire, the City of Salisbury.  
Worcester, the City of Worcester.  
Yorkshire, the City of York.

Though



Indictment  
lies at Com-  
mon Law for  
selling by un-  
lawful Weights  
and Measures.

Though it was formerly doubted whether Justices of Peace had Power to take away unlawful Bread, and give it to the Poor, or to fine Bakers on their being convicted of breaking the Assize of Bread, because the Justices of Peace have no Authority by 12 Ed. 4. c. 8. as Mayors, Bailiffs, or Lords of Leets have, of correcting those Offenders, which is by Pillory. And that Proceedings on Indictments against Bakers were stopped by an Order of Sessions, 7 Car. 1. yet for selling by false Weights and Measures, an Indictment would lie notwithstanding a Punishment appointed by the Statutes above-mentioned in another Method, because this was an Offence at Common Law.

8 Ann. c. 18.  
for settling the  
Assize of  
Bread, &c.  
Lord Mayor  
in London  
and two Ju-  
stices in Coun-  
ties, may set-  
tle the Assize  
of Bread, &c.

But now this Matter is fully settled by the Statute 8 Ann. c. 18. by which so much of 51 H. 3. and 17 Ed. 2. c. 2. as relates to the Assize of Bread, is repealed; and the Court of Lord Mayor and Aldermen in London, &c. or Lord Mayor by Order of the said Court, and the Mayor, Bailiffs, &c. of other Cities or Towns Corporate, &c. or two Justices in Towns or Places where no Mayor, &c. shall, from Time to Time, as there shall be Occasion, set (within their Jurisdiction) the Assize and Weight of all Sorts of Bread to be sold by Baker or other Person; having respect to the Price of Grain, Meal and Flower, whereof such Bread shall be made; making reasonable Allowance for their Charges, Pains, and Livelihoods. Assize to be in *Averdupois*, and not *Troy Weight*. No Baker shall sell above three Sorts of Bread, White, Wheaten and Houhold, except any other Sort shall be licensed by the Officers aforesaid: Baker to mark on the Loaf, the Sort, Price, and Weight of every Loaf. Officers aforesaid to appoint how and in what Manner such Sort of Bread shall be marked for knowing the Baker, Price, Weight, and Sort thereof. Baker not observing the Orders made or to be made by Virtue of this Act, being thereof convicted by Confession or Oath of one Witness before Officers aforesaid, or one Justice of the County, &c. forfeits 40 s. by Distress, &c. by Warrant from a Justice. Forfeiture to Informer; Convictions certified to next Quarter-Sessions, to be recorded. Prosecution in Three Days. Appeal to Quarter-Sessions, Costs allowed to the Gainer of the Cause. Mayor or Justice may enter, in the Day-time, into any Baker's House, Shop, &c. to view, weigh, try, &c. all his Bread; if any be found wanting in Goodness of Stuff, in Baking, Weight, or not duly marked, it shall be lawful to seize the Bread, and give it to the Poor. Baker opposing, &c.

to forfeit 40s. to Informer, to be levied as aforesaid. All Justices, Constables, &c. are required to see the Act 22 Car. 2. c. 8 and 22 & 23 Car. 2. c. 12. put in Execution. If any Action is brought against Defendant for what he has done in Execution of this Act, he may plead general Issue, and shall have double Costs. This Act not to prejudice any Right of City of London, or the Lord of any Leet, nor of the Clerks of the Markers. This Act not to affect the two Universities. Bakers putting into Bread for Sale, any Mixture of Grain, other than what shall be appointed; or if any Magistrate shall be negligent in the Execution of this Act, after Information made to him of any Offence, he shall forfeit 20s. to be recovered in the Courts at Westminster, and disposed of as before. This Act was to continue for Three Years, and to the End of the next Session of Parliament.

By Stat. 1 Geo. 1. c. 26. the Act 8 Ann. c. 18. was continued for Three Years, and from thence to the End of the next Session of Parliament, and the Penalty of 40s. for Want of Weight, or not being marked as directed in the Act 8 Ann. c. 18. is repealed. And if any Baker shall make or expose to Sale any Bread, wanting an Ounce or more of due Weight, being thereof lawfully Convicted, he shall forfeit 3s. for every Ounce wanting, and wanting less than an Ounce 2s. 6d. Complaint being made, and the Bread weighed before a Magistrate within 24 Hours after it is baked or sold, if within the Bills of Mortality, and within Three Days elsewhere; the said Forfeitures to be levied and disposed of as in the Act 8 Ann. c. 18. every Baker may make and expose to Sale, Peck, Half-peck, Quarters, and Half quarters Loaves, so as the same be made and sold, both as to Weight and Price, in Proportion to the Affize-Table contained in the said former Act.

Continued by  
1 Geo. 1. c. 26.

Baker forfeits  
5 s. an Ounce,  
and 2 s. and  
6 d. under an  
Ounce.

Every Time the Affize shall be altered, the Price of Grain, Meal and Flower in the adjacent Markets (to be ascertained according to Winchester Measure) shall be given in upon Oath before the Mayor and Aldermen of London, or to the chief Magistrate or Justice, who by the said Act are impowered to set such Affize by the Clerks of the adjacent Markets, or such other Person as the said Magistrate shall appoint; so that they may set the Affize accordingly, and make such Allowance to the Bakers, as heretofore hath been accustomed. And the Affize of Bread for the City of London and Bills of Mortality (Westminster, South-

When Affize  
is altered,  
Price of Corn  
must be given  
in upon Oath,  
&c.

wark,

Continued further by 5 Geo. 1. c. 25.

Further continued by 10 Geo. 1. c. 17.

In every Leet or Market there ought to be a Pillory, or forfeit their Franchises.

What Millers ought to take.

Millers not to be common Buyers of Corn.

work, and Bills of Mortality in *Surry* excepted) shall be set by the Court of Lord Mayor and Aldermen, or by the Lord Mayor, by Order of the said Court.

By Stat. 5 Geo. 1. c. 25. it is enacted that the said Act of 8 Ann. c. 18. shall continue and remain in full Force with such Alterations as were made by the Act 1 Geo. 1. c. 26. for five Years, and from thence to the End of the next Session of Parliament.

By Stat. 10 Geo. 1. c. 17. the said Act of 8 Ann. with the said Alterations, is further continued from the Expiration thereof for Seven Years, and from thence to the End of the then next Session of Parliament.

N. B. That within every Leet or Market, there ought to be a Pillory, and a Tunbrel, to punish the Bakers and Brewers that offend, &c. and for Want thereof, the Lord of such Leet or Market, shall make a Fine to the King. Cro. 149.

Also they who have the Keeping and Correction of the Assize of Bread and Beer, if they have not a Pillory and a Tunbrel to punish Bakers and Brewers that are faulty, they shall forfeit their Franchise. Cro. 148.

Also a Leet may be seized into the King's Hands, if the Steward there shall take Money to spare the Punishment of the Tunbrel, where one shall offend in the Assize of Bread or Ale. Cromp. 181.

The Miller's Toll-Dish ought to be according to Standard, and he ought to take one Quart for grinding a Bushel of hard Corn, viz. Wheat, Rye, or Meslin (which is Wheat and Rye mixed) brought to his Mill, but if he fetch it and carry it home, then two Quarts.

For Malt he is to take but Half the Toll he taketh for Corn, because it is easily grinded.

These Offences are punishable in the Leet, but for changing the Grist, a Miller may be indicted at the Sessions, for it is a Wrong done by Disceit, and is *contra pacem*.

N. B. Millers are not to be common Buyers of any Corn to sell the same again, either in Corn or Meal, but ought only to grind the Corn brought to their Mills.



A TABLE of the Affize of Bread, as limited by 8 Ann. in Pounds, Ounces, and Drams, *Avoirdupois* Weight.

## The Penny Loaf.

| Price<br>of a<br>Bushel<br>of<br>Wheat,<br>and Ba-<br>king. | White     |           | Wheaten.   |            | Household. |            | Price<br>of a<br>Bushel<br>of<br>Wheat,<br>and Ba-<br>king. |           |           |            |            |            |            |
|-------------------------------------------------------------|-----------|-----------|------------|------------|------------|------------|-------------------------------------------------------------|-----------|-----------|------------|------------|------------|------------|
|                                                             | <i>s.</i> | <i>d.</i> | <i>Ou.</i> | <i>Dr.</i> | <i>Ou.</i> | <i>Dr.</i> |                                                             | <i>s.</i> | <i>d.</i> | <i>Ou.</i> | <i>Dr.</i> | <i>Ou.</i> | <i>Dr.</i> |
| 2 0                                                         | 23        | 3         | 34         | 12         | 46         | 5          | 8 9                                                         | 5         | 5         | 7          | 15         | 10         | 9          |
| 2 3                                                         | 20        | 10        | 30         | 14         | 41         | 3          | 9 0                                                         | 5         | 2         | 7          | 12         | 10         | 5          |
| 2 6                                                         | 18        | 9         | 27         | 13         | 37         | 1          | 9 3                                                         | 5         | 0         | 7          | 8          | 10         | 0          |
| 3 0                                                         | 15        | 7         | 23         | 3          | 30         | 14         | 9 6                                                         | 4         | 14        | 7          | 5          | 9          | 12         |
| 3 3                                                         | 14        | 4         | 21         | 6          | 28         | 8          | 9 9                                                         | 4         | 12        | 7          | 2          | 9          | 8          |
| 3 6                                                         | 13        | 4         | 19         | 14         | 26         | 8          | 10 0                                                        | 4         | 10        | 6          | 15         | 9          | 4          |
| 3 9                                                         | 12        | 6         | 18         | 9          | 24         | 11         | 10 3                                                        | 4         | 8         | 6          | 13         | 9          | 1          |
| 4 0                                                         | 11        | 9         | 17         | 6          | 23         | 3          | 10 6                                                        | 4         | 7         | 6          | 10         | 8          | 13         |
| 4 3                                                         | 10        | 14        | 16         | 6          | 21         | 13         | 10 9                                                        | 4         | 5         | 6          | 7          | 8          | 10         |
| 4 6                                                         | 10        | 5         | 15         | 7          | 20         | 10         | 11 0                                                        | 4         | 3         | 6          | 5          | 8          | 7          |
| 4 9                                                         | 9         | 12        | 14         | 10         | 19         | 8          | 11 3                                                        | 4         | 2         | 6          | 3          | 8          | 4          |
| 5 0                                                         | 9         | 4         | 13         | 14         | 18         | 9          | 11 6                                                        | 4         | 0         | 6          | 1          | 8          | 1          |
| 5 3                                                         | 8         | 13        | 13         | 4          | 17         | 10         | 11 9                                                        | 3         | 15        | 5          | 15         | 7          | 14         |
| 5 6                                                         | 8         | 7         | 12         | 10         | 16         | 14         | 12 0                                                        | 3         | 14        | 5          | 13         | 7          | 12         |
| 5 9                                                         | 8         | 1         | 12         | 1          | 16         | 2          | 12 3                                                        | 3         | 13        | 5          | 11         | 7          | 9          |
| 6 0                                                         | 7         | 12        | 11         | 9          | 15         | 7          | 12 6                                                        | 3         | 12        | 5          | 9          | 7          | 7          |
| 6 3                                                         | 7         | 7         | 11         | 2          | 14         | 13         | 12 9                                                        | 3         | 10        | 5          | 7          | 7          | 4          |
| 6 6                                                         | 7         | 2         | 10         | 11         | 14         | 4          | 13 0                                                        | 3         | 9         | 5          | 6          | 7          | 2          |
| 6 9                                                         | 6         | 14        | 10         | 5          | 13         | 12         | 13 3                                                        | 3         | 8         | 5          | 4          | 7          | 0          |
| 7 0                                                         | 6         | 10        | 9          | 15         | 13         | 4          | 13 6                                                        | 3         | 7         | 5          | 2          | 6          | 14         |
| 7 3                                                         | 6         | 6         | 9          | 9          | 12         | 13         | 13 9                                                        | 3         | 6         | 5          | 1          | 6          | 12         |
| 7 6                                                         | 6         | 3         | 9          | 4          | 12         | 6          | 14 0                                                        | 3         | 5         | 4          | 15         | 6          | 10         |
| 7 9                                                         | 6         | 0         | 9          | 0          | 11         | 15         | 14 3                                                        | 3         | 4         | 4          | 14         | 6          | 8          |
| 8 0                                                         | 5         | 13        | 8          | 11         | 11         | 9          | 14 6                                                        | 3         | 3         | 4          | 13         | 6          | 6          |
| 8 3                                                         | 5         | 10        | 8          | 7          | 11         | 4          | 14 9                                                        | 3         | 2         | 4          | 11         | 6          | 5          |
| 8 6                                                         | 5         | 7         | 8          | 3          | 10         | 14         | 15 0                                                        | 3         | 1         | 4          | 10         | 6          | 3          |

N. B. That the White Loaves are only one Half, and the Wheaten three Quarters of the Weight of Household Loaves. As also that Six-penny, Twelve-penny, and Eighteen-penny Loaves, are generally made of Wheaten and Household Bread.

*Explanation of the Table.*

**I**N the first Column is the Price of the Bushel of Wheat, with the Magistrate's Allowance for the Baking; and in the other Columns is the Weight of the Bread; so that if the Price of Wheat be 5 *s.* per Bushel, and the Magistrate allow 1 *s.* 6 *d.* the Bushel for

for Baking, then even with 6s. 6d. in the first Column, will be found the Weight of the Loaves. By this Table you may ascertain the Weight of large Loaves by Addition: As for Example, A Six-penny Loave when Wheat is at the same Rate, is six Times as much as the Penny-Loave, a Twelve-penny Loaf, twelve Times, an Eighteen-penny Loaf eighteen Times as much, &c.

A Baker was indicted, and three Exceptions taken to the Indictment. 1. That he was indicted for using *facultatem pistoris*, and does not say *panis humani*. 2. For Baking *panis tritici*, *Anglice* Household Bread; whereas it signifies only Bread made of Wheat, and not Household Bread, for that may be made of other Corn. 3. For Baking *panis Assis*, without a Dash for *panis Assize*. And for these Exceptions the Indictment was quashed. *Hill. 23 Car. 1. B. R. Style's Rep. 24.*

A Baker was indicted for selling of Bread under the Assize, and the Indictment was quashed, because it did not shew where he sold the Bread, nor to whom. *Mich. 1649. Style's Rep. 106.*

A Warrant to summon Persons using Weights and Measures, to appear and have them examined, &c.

**T**Hese are in his Majesty's Name to require you and every of you, upon Sight hereof, to summon and give Notice to the several Inhabitants within their respective Divisions, that buy and sell any Goods, Wares, Commodities, or Liquors by Weight or Measure, that they do appear before me on, &c. next, at, &c. in the County aforesaid, to have their respective Weights and Measures tried and examined by the Standard; and that you do likewise appear at the Time and Place aforesaid, and deliver to me in Writing a List of the Names of every such Inhabitant whom you shall summon, with their respective Callings. Given, &c.

Indict.

Indictment against the Clerk of the Market,  
or against a Mayor for taking excessive  
Fees for sealing Weights, &c.

Essex. ff. **J** W. et. quod A. B. de M. in Com'  
pred' Clericus Mercati in & p M. pred'  
20 die Junii Anno Regni, et. apud M.  
pred' \* quatuor denarios p sigillatione cuiusdam men- It is but one  
sure vocat' a Bushel de L. M. colore officii sui pred' Penny per  
A. B. tunc Clerico Mercati pred' existen' injuste Statut. 22 Car.  
& extorsione cepit contra formam Statut. in hujusmo- 2. c. 8.  
di casu edit' & probis' & contra pacem, et.

The like Indictment may be (*mutatis mutandis*) for  
neglecting or refusing (being required) to seal, &c.  
Forfeiture for the first Offence 5*l*. and for the second  
Offence 10*l*.

A Warrant to levy the Forfeiture of an Of-  
ficer for sealing Weights and Measures not  
agreeable to the Standard, &c.

Essex. ff. **W** Hereas it has been duly proved before me, that 16 & 17 Car.  
A. B. Bailiff of the Town of, &c. has 1. c. 19.  
lately sealed several Weights and Measures not agreeable to One Justice.  
the Standard in his Majesty's Exchequer, and particularly  
one Half Hundred Weight belonging to, &c. and one Bushel  
for, &c. which Weights and Measures have been used in the  
selling of Goods and Commodities, to the Deceit and Cheat-  
ing of several Persons: These are therefore in his Majesty's  
Name to command you to levy the Sum of 5*l*. on the Goods  
and Chattels of the said A. B. which he hath forfeited by  
the Offence aforesaid, by Distress and Sale thereof, and that  
you do employ the same when levied, for the Use of the Poor  
of the said Parish of, &c. Given, &c.

An



### An Indictment against a Mayor for suffering any unlawful Measure to be used.

22 Car. 2. c. 8.  
Forfeiture 5 l.  
to Informer  
and Poor.  
Conviction  
must be by In-  
dictment in  
Sessions.

Essex. ff. **J**UR', &c. quod quidam A. B. Major & capitalis officiar' Burgi de M. in Com' pzed' 20 die Junii Anno Regni, &c. sci- enter & voluntarie pmisit quendam L. M. infra li- mites Burgi pzed' & infra Jurisdictionem pzedat' A. B. adtunc Major' & capital' officiar' Burgi pzed' existen' vendere duas quarterias tritici apud M. pzed' in Com' pzed' mensurati p modium non congruen' (Anglice not agreeable) eragio signat' in Scaccario pzedat' D'ni Regis communiter vocat' the Winchester Measure contra formam Statut' in hujusmodi casu edit' & p'bis' & contra pacem, &c.

The like Indictment (*mutatis mutandis*) for suffer- ing Corn or Salt to be bought or sold in a Bushel not stricken by the Brim; or if upon Complaint he shall not punish or reform those who offend in these Cases, the Forfeiture is 5 l. for every Offence: The Con- viction must be by Indictment or Presentment at Ses- sions, and then to be levied by Distress and Sale of the Goods of the Offender; and if that cannot be had, then he may be committed till it is paid; but there must be two Justices at least to sign the Warrant of Commitment.

### A Warrant to levy the Value of the Corn sold, together with the 40s. Penalty for selling heaped Measure without striking the Bushel.

To the Constable and Headborough of, &c. and to the Church-wardens and Overseers of the Poor of the Parish of M.

22 & 23 Car. 2. c. 12.  
One Justice.  
One Witness  
on Oath, per  
17 Car. 1. c. 19.

Essex. ff. **W**Hereas Complaint hath been made unto me that A. B. of, &c. did on the 9th Day of July last past, in the Parish of M. in the said County, sell Corn by a Bushel, not agreeable with the Standard, in his Majesty's Exchequer, commonly called Winchester Measure (or, that the Buyer did shake the Bushel, or, that the Bushel was unsealed, or, that it did not contain Eight Gallons, as the

the Case is). And whereas the said A. B. hath failed to prove before me, by the Oath of one or more credible Witnesses, that he did sell (or buy, as the Case is) the same by a Bushel, agreeable to the said Standard, (or as the Case is) and thereupon he stands legally Convicted of the said Offence: These are therefore to require you forthwith to seize the said Corn, the same being forfeited; and if that cannot be had, then the Value thereof, as also the Sum of 40s. which he hath also forfeited for the said Offence, and to levy the same upon the Goods and Chattels of the said A. B. and that you distribute one Half thereof to the Poor of the said Parish of M. where the said Offence was committed, and the other Half to G. H. of the Parish of, &c. who informed thereof: And hereof fail not. Given, &c.

## A Warrant to levy the Penalty on a Baker for selling Bread not of due Weight, &c.

To the Constable, &c.

Surry. ff. **W** Hereas Complaint hath been made unto us, <sup>1 Geo. 1. c. 25.</sup> two of his Majesty's Justices of Peace for <sup>Two Justices.</sup> the said County, that A. B. of, &c. did on the 5th Day of April last past at M. in the said County (there being no Mayor, Bailiff, Alderman or Chief Magistrate of the said Place) \* expose to Sale Bread wanting its due Weight. \* Or as the

We therefore pursuant to the Statute in that Case made and provided, did cause the said Bread to be weighed before us at M. aforesaid, and within three Days after it was baked, and it then wanted an Ounce or more of its due Weight, by Reason whereof the said A. B. hath forfeited 5s. \* These are therefore to require you to levy the said Sum of 5s. \* If less than an Ounce it is 2s. on the Goods and Chattels of the said A. B. by Distress and 6d. Sale thereof, rendering to him the Overplus, if any such shall happen to be, and that you then pay the same to A. B. of, &c. who first informed us of the said Offence. Given, &c.

**Westminster Hall.** See Sessions.

**Windows.** See Houses of Habitation.

## Wines.

Statutes about  
selling Wine  
by Retail, &c.

Several Statutes have been heretofore made about the selling Wine by Retail, particularly 28 H. 8. c. 14. whereby the Lord Chancellor, Treasurer, President of the Council, Privy Seal, and the two Chief Justices, or five, four, or three of them, had Power at their Discretions, to set the Prices of all Sorts of Wines; and those who sold at any other Price, forfeited 40*l.* and Justices of Peace had Power to hear and determine these Offences. And by 37 H. 8. c. 23. if any refuse to sell their Wines according to the Prices so set in *London*, the Mayor, Recorder, and two ancient Aldermen, and in other Places the Mayor, Bailiffs, Aldermen, and other Officers, (whereof the chief Officer is to be one) may enter the Houses of such Persons, and sell their Wines at the said Prices.

And by 5 *El.* c. 5. and 27 *El.* c. 11. any licensed to retail Wine, selling above the Price limited by Proclamation, lose Three and Four-pence for every Gallon.

By Statute 7 *Ed.* 6. c. 5. none were to utter Wine by Retail, in any City, Borough, or Corporation, but by Licence under their Common Seal, nor in any Place not Corporate, without Licence of the Justices of Peace of the County in Sessions under their Seal, on Pain to forfeit 5*l.* for every Day they sold otherwise; Prosecution to be within a Year, and two Justices of Peace had Power to enquire of Offences committed against this Act.

But by 12  
Car. 2. c. 25.  
Wine Licences  
settled on the  
King.

But by Statute 12 *Car.* 2. c. 25. the Power of granting Wine Licences was settled in the Crown, to be managed by Commissioners, and so it still continues.

By the said Act it is enacted, that all Persons who sell Wine in Gross or Wholesale, mingled, sophisticated, or adulterated, shall forfeit 100*l.* for every Offence; and all selling such Wine by Retail, forfeit 40*l.* one Half to the King, and the other to the Informer.

Persons adul-  
terating  
Wines, &c.  
forfeit 300 *l.*

And by Statute 1 *W. & M.* c. 34. if any Merchant, Vintner, Wine-Cooper, or other Person selling Wine by Wholesale or Retail, shall corrupt or adulterate any Wine, or shall utter any Wine corrupted or adulterated,



terated, they shall forfeit 300*l.* for every such Offence; one Moiety to the King, the other to the Prosecutor, by Action of Debt, Bill, Plaint or Information, &c. and shall suffer Three Months Imprisonment.

By the said Stat. 12 Car. 2. c. 25. no Spanish or Sweet Wines shall be sold at above 18 *d.* per Quart; no French Wine above 8 *d.* no Rhenish Wine above 12 *d.* and so proportionably, on Pain to forfeit 5*l.* for every Quart sold at a higher Price; one Half to the King, the other to the Prosecutor, unless the Chancellor, Treasurer, &c. as above said, shall by Proclamation set other Prices. The Commissioners shall take no Fees, other than 5*s.* for a Licence, 4*d.* for an Acquittance, and 6*d.* for a Bond, under Pain of 10*l.* Half to the King, the other Half to the Prosecutor.

By Stat. 2 W. & M. c. 14. if any sell any Wine or any Liquor exposed to Sale as Wine in any Bottle or Bottles, or other Measure not made of Pewter, and sealed according to Law, and shall be thereof convicted by the Confession of the Party, or by the Oath of two credible Witnesses, before a Justice of Peace of the County where, &c. he shall pay 30*s.* for every Offence, upon Demand; if not paid, to be levied by Distress by Warrant of the said Justice; and for Want thereof to be committed to Gaol without Bail till he pay the Money and Penalty, and all necessary Costs and Charges of Prosecution and Conviction; the Costs to be taxed by the said Justices.

One punished by this Act not to be punished by any other for the same Offence, no Certiorari to be granted or allowed. *Ibid.*

The next Justice may commit to Prison those who beat or abuse the Officers or Informers, or such as may punish act in their Behalf, &c. to remain till Quarter-Sessions; the Sessions may punish the Offenders by Fine, not exceeding 5*l.* and the Offender to remain in Prison till he be discharged both of the Fine and Imprisonment, by Order of the said Justices, or any two of them. *Ibid.*

Selling Wine in Bottles for, sells 30*s.*

One Justice those who abuse Informers.

## Witness.

Witness must  
appear or for-  
feit 10l.

**B**Y Stat. 5 El. c. 9. none served with Process out of a Court of Record to testify as a Witness (being tendred convenient Charges, and having no reasonable Let) shall therein make Default, on Pain to forfeit to the Party grieved 10l. and besides, to yield him such further Recompence as the Judge of the same Court shall think fit, according to the Damage sustained; which said Sums shall be by him recovered in any Court of Record, by Action of Debt, in which no Wager of Law, *Effoin*, &c. shall be allowed.

Who are in-  
sufficient Wit-  
nesses, &c.

Insufficient Witnesses are, one Convict of Perjury, *Pernunive*, Forgery, or other infamous Person, an *Infidel*, *Non Compos*, a Party, nor a Wife for or against her Husband. Co. Litt. f. 6. b.

Nor one set on the Pillory. Co. 3. Inst. 219. Hale P. C. 163. Levinz. 3. Rep. 426.

A Party Outlawed (especially of Felony) is no lawful Witness. Trin. 32 Car. 2. B. R. Cellier's Case.

In an Information in the Crown-Office for a Riot, two of the Defendants, no Proof appearing against them, were allowed and sworn as Witnesses on Behalf of the other Defendants. Sid. 237. Rex ver. Bedder.

A Suborner of Perjury is for ever disabled of being a Witness. 5 El. c. 9.

Prisoners Witnesses are to be upon Oath as well as those for the King, by 1 Ann. c. 9.

Witch,

## Witchcraft.

**B**Y Stat. 1 Jac. 1. c. 12. Conjurat[i]on, Invocation, What is Witch-  
 Consultat[i]on of any evil Spirit, or Taking up craft.  
 dead Bodies, or any Part thereof, to be employed in  
 Witchcraft or Charms, or Using any Manner of Witch-  
 craft, whereby any Person shall be killed, or any  
 Part of his Body wasted or lamed, both the Princip- Is Felony with-  
 pal and the Accessories before the Fact, are Felons out Benefit of  
 without Benefit of Clergy. Clergy.

If any shall be convicted to have by Witchcraft, To tell where  
 Sorcery, Charm, or Inchantment, undertaken to tell hidden Trea-  
 where any hidden Treasure or Goods lost or stolln may sure, &c. is,  
 be found, or are become, or to provoke unlawful to stand in the  
 Love, or to destroy or hurt any Cattle, Goods, or Pillory, &c.  
 Person, albeit the same be not effected; they shall  
 for the first Offence suffer one Year's Imprisonment  
 without Bail, and stand in the Pillory six Hours every  
 Quarter of that Year in some open Fair or Market,  
 and there openly confess his Offence. The second is  
 Felony without Benefit of Clergy. But in these Cases  
 there shall be no Loss of Dower nor Disherison of  
 Heir or Corruption of Blood; and a Peer (being an  
 Offender) shall be tried by his Peers.

A. C. was indicted at *Southwold* in *Suffolk*, for Felony and Witchcraft, before Justices of Peace; and being brought up by *Habeas Corpus*, and Counsel assigned her, several Exceptions were taken to the Indictment. 1. To the Caption, wherein it was expressed, that the Indictment was taken in *pena Sessione*, where it should be in *plena Sessione*. Rolle answered, if the Word *pena* were left out, the Indictment is good without it. 2. That the Indictment doth not say that the Justices before whom it was taken were *Justiciarii ad pacem tenendam in villa pred'*, and then they might have no Power to find the Indictment; but this was over-ruled. 3. That the Indictment was too general; for it only says that the Prisoner *practicavit diabolicas artes*, and doth not express what. Rolle Justice answered, that the Employing of wicked Spirits to any

Case of Witch-  
craft.



Intent whatsoever, is Felony within the Statute; and the Intent why they were employed is well expressed in the Indictment; and if an Indictment fail in one Part it may be good in another; and therefore the Indictment was good. *Trin. 24 Car. 1. B. R. Style's Rep. p. 116. Rex ver. Camel.*

Dr. Lamb was indicted for Sorcery and Witchcraft, viz. *quod exercuit quasdam malas & execrabiles & diabolicas artes, Anglice Witchcraft*; but this Indictment was quashed, because there was no Word in the Indictment which signifies Witchcraft. It was said *incantatio* is the proper Word for Witchcraft. *Latch. Rep. 156. Dr. Lamb's Case, Nay's Rep. 83. Hill. 1 Car. 1. B. R. Benloe's Rep. S. C. as in Mich. Term. 2 Car. 1. and says the Court came to no Resolution.*

### Widow. See Felony.

Takers away  
of Women,  
&c. are Guilty  
of Felony  
without Clergy,  
&c.  
3 H. 7. c. 2.

**F**Ormerly Women having Substance in Goods, Lands, and Tenements, and some being Heiresses at Law, were taken away for the Lucre of their Substance against their Wills, and married and defiled; to prevent which a Statute was made the 3 H. 7. c. 2. by which it was enacted, that he who taketh away any such Woman, the Procurer, Aider, Abettor, and wilful Receiver of such Woman, shall be Felons; and by Stat. 39 El. c. 9. Clergy is taken away from all such Offenders. But then there must be

- (1.) A Taking away by Force.
- (2.) She must have Substance in Goods, Lands, &c.
- (3.) Or she must be Heir apparent.
- (4.) She must be married or defiled.

And the Crime of taking away by Force is not mitigated, though the Marriage afterwards is by the Woman's Consent.

Cases of it.

A Man enticed the only Daughter of her Father, (who would be worth 5000 l.) to see a Ship, and when he had her on the Thames, he carried her by Force and Threats into the Country, and there married her; but the Truth was, she had a Brother living at that Time, and this was held not to be within this Statute, because she had neither Substance in Lands, Goods, &c.

&c. her Father being alive, nor was the Heir apparent, for her Brother was living. *Hutt. 2. Hob. 182.*

But another Question has been raised upon this Statute, and that is, Whether the Taking away by Force a Woman who has Substance, &c. or who is Heir apparent, and Threatning her to make a Contract for Marriage, is Felony, or not? and held in the Negative; for though in the Body of the Act it is said that the Taking by Force is Felony, yet it must be not only a Taking by Force, but Marrying or Defiling. *1 And. 1. 25. Savil. 99.* But if the Contract be made by Words *in presenti, Quare*; for Justice Croke was of a contrary Opinion.

Three were indicted on this Statute, for that S. C. having a Portion of 1300*l.* they to gain her Portion, took her against her Will, at *Newington in Middlesex*, and carried her to St. *Saviour's in Surry*, and there one of them by the Procurement of the other two Defendants, married her, &c. It was insisted that she consented to be married; but adjudged that the Taking her away, being unlawful and against her Will, though the Marriage was with her Consent, it is Felony; and though it was not a Marriage *de Jure*, because she was under a continual Fear, yet it was a Marriage *de Facto*, and Felony within the Statute, without Clergy. *Cro. Car. 347. Fulwood's Case.*

One *Bainton*, pretending to be a country Lady, took Lodgings where one *Rawlins* an Heiress lodged, and introduced one *Swanson*, who she pretended to be her Brother, into *Rawlins's* Company, and managed the Heiress so, that she declared she wished he would marry her; but *Bainton* finding that she could not effect her Design, without parting *Rawlins* from her Aunt who lodged with her, *Bainton* persuaded them to go to Church along with her, and in their going to Church, got both *Rawlins* and her Aunt to be arrested by two Bailiffs, who carried them into two separate Rooms in a Tavern, and then carried *Rawlins* to another Tavern, where *Swanson* came to bail her, and *Bainton* told her, that if she did not marry him, she must go to *Newgate*; whereupon she married him under the Arrest. Now though the Heiress perhaps had a Fancy to the Man, yet she not knowing of this Contrivance, nor consenting to come to him after this Manner, and being married under this Restraint, tho' she consented to the Marriage, yet it was Felony by this Statute; for here was a forcible Taking away, and her subsequent Consent, whilst under the Re-

Cases of it.

straint, shall be accounted as the Effect of the continuing Force, and both *Bainton* and *Swanson* were condemned; for all Aiders and Assisters to this Fact are Principals. *Mich. 1 Ann.*

*Lucy Ramsey*, of the Age of 14 Years, and 5000*l.* Portion, was persuaded by *M. P.* to go to *Hyde-Park* in a Coach; and being there, the Coachman drove from the Company, and one *Brown* came up to the Coach in a Mask, and persuaded *M. P.* to come out of the Coach, which she did, and then he pulled *Mrs. Ramsey's* Servant out, and got into the Coach himself, and carried her to his Lodgings in the *Strand*, where, after threatening to carry her beyond Sea, he prevailed to marry her, but was taken the same Day, and she was admitted to be a Witness against him, being only a Wife *de facto*. She proved the forcible Taking away, and there was Proof of her Substance, and of her Marriage, tho' not deflower'd. He was hang'd. *1 Vent. 243. Brown's Case.*

4 & 5 P. &  
M. c. 8.  
Statutes about  
taking away  
Girls under 16.

There is another Statute, something of this Nature, made 4 & 5 P. & M. c. 8. by which 'tis enacted, That if any Woman-Child, under 16 Years of Age, and unmarried, be taken away out of the Custody, and against the Will of the Father or Mother, or of the Guardian, against their Consent, &c. that the Party shall suffer two Year's Imprisonment, without Bail, or pay such Fine as shall be imposed upon him by the Court of Star-Chamber. None shall take away and deflower, or contract Matrimony with any such Child, against the Will of her Father, if he be living, or of her Mother, having the Custody of her, if the Father be dead, on Pain to suffer five Years Imprisonment, or else to pay such Fine as shall be assessed by the said Court of Star-Chamber.

The said Fines shall be divided between the King and Party grieved. *1 Mod. 84. 163.*

The said Court of Star-Chamber, and Justices of Assize, have Power to hear and determine these Offences.

If such Child above 12, and under 16 Years old, do consent to any such Contract of Matrimony, the next of Kin, to whom her Inheritance should come, shall enjoy it during her Life: But, after her Decease, it shall revert to the Inheritor, other than to him that did so contract Matrimony.

This Statute seems to be in Affirmance of the Common Law; for if (before the Statute) a Man came to the Father's House, and contracted Marriage with  
his



his Daughter under 15 Years of Age, and by Appointment, meeting and marrying him, this was punishable by Fine and Imprisonment. *Sid.* 387.

A Freeman of London devised the Custody of his Daughter to C. and died, the Daughter being then in the Country, C. gets a Warrant from the Chief Justice to take her, which he did, but she was then married to B. This was held to be out of the Statute, because the Child never was in Possession of the Guardian. *Sid.* 363.

An Information was exhibited against the Defendant for an unlawful Practice and Combination, in procuring a clandestine Marriage in the Night between a Maid-Servant and a young Gentleman, who was Heir to an Estate, and this was without Bans or Licence; and the Person being drunk, they were fined to the King, and 100 Marks apiece to the Plaintiff, and committed till paid. *March* 52. *Cro. Car.* 557.

The Defendant was indicted on this Statute before the Judges of B. R. in *Middlesex*: It was objected, that it was *coram non judice*, because the Statute directs that it shall be determined by a Judge of Assize, or Court of Star-Chamber, now there are no Judges of Assize in *Middlesex*, and the Court of Star-Chamber is taken away: The Court doubted on both Points.

But there being no negative Words in the Statute B. R. seems not to be excluded. 2 *Lev.* 179. 3 *Rep.* in *Ratcliff's Case*.

The Testator having a Son and Daughter, appointed by his Will that their Mother should educate them; she married again, and the Daughter being in the Father-in-law's House, and being above the Age of 14, and under 16, went from thence, by his Consent, to London, and was there married to W. R. Adjudged, that the Mother had the Custody of the Daughter at the Time of the Contract and Marriage, within this Statute, both as Guardian by Nature, and by the Will of her Father; and tho' she was gone six Hours before she was married, yet, in Judgment of Law, the Mother had the Custody of her at the Time of the Contract, because it was a Thing inseparable from her Person. Cases of it.

Women arraigned for Felony can plead the Benefit of their being pregnant but once. *Lamb.* 563.

A Woman being delivered of a Bastard Child, and born alive, that endeavours privately, by drowning, burning, or other Way by her self, or procuring others to conceal the Death thereof, as that it cannot come to them, &c.

**Women. Woods.**

to Light, whether it were born alive or dead, shall suffer as in wilful Murder, unless she can prove by one Witness that the Child was born dead. 21 *J. 1. cap. 27.*

A Feme Covert cannot be indicted of Barretry, but it shall be quash'd. 2 *Roll. 39.*

A Feme Covert is punishable for a Riot, and shall answer and be Party to the Judgment alone.

Women and Children may commit a Force, Larceny, and may be bound to the Peace.

A Woman may be chose Con-  
stable. A Woman may (by Custom) be chosen Constable, but shall execute the Place by Deputy. 1 *Car. 1.*

**Woods. See Fuel and Hedge-breaking.**

When Coppices are fell'd, what Standils shall be left, and till what Age.

**B**Y Stat. 35 *H. 8. c. 17.* where Coppices are felled at or under 24 Years Growth, there shall be left in every Acre 12 Standils of Oaks; and if so many do not grow there, then it shall be supplied with the like Number of Elm, Ash, Asp or Beech; or for every Standil not so left, the Owner forfeits 3 *s. 6 d.*

These Standils must not be felled till they are ten Inches square, within three Feet of the Ground, under the Forfeiture of 3 *s. 6 d.*

If felled above 24 Years Growth, and not leaving so many Standils, &c. forfeits *per* Standil 6 *s. 8 d.*

Must not fell such Standils which are left till twenty Years afterwards; Forfeiture for every Tree so felled within that Time, 6 *s. 8 d.*

But such Standils may be felled for the Use of the Owner of the Soil in Building, &c.

Under-woods must be preserved.

Under-woods felled at 14 Years Growth, or under, shall for six Years afterwards be preserved from Destruction of Cattle, or the Owner shall forfeit for every Rood *per* Month unfenced, 3 *s. 4 d.* This must be done by him who hath a lawful Interest and Possession in the Woods, and it must be set forth in the Information, or it is ill. *Cro. El. 127.*

Not converted into Tillage.

Coppice Woods, containing two Acres and upwards, and being two Furlongs Distance from the House of the Owner,

Owner, shall not be converted into Tillage or Pasture. Penalty is 40 s. for every Acre.

These Forfeitures are to be recovered in any Court of Record, and go to the King and Prosecutor.

Where there is a Wood or Coppice, wherein others have Common, the Lord or Owner of the Soil shall not fell or cut down the same, except to his own Use, before he and the Commoners shall agree in the setting out the fourth Part thereof to be severally inclosed for the Lord's Use. And, in case they cannot agree thereupon, two Justices of Peace, appointed by the major Part of the Justices in Sessions, shall have Power to call together twelve of the Commoners and Inhabitants there, and, with the Lord's and their Consent, to set out the fourth Part thereof, to be severally inclosed by the said Lord within one Month after; and then to be felled at his Pleasure; and also to be subject to the aforesaid Laws of other Coppices, upon such Penalties as aforesaid. Only, if any Beast be suffered to come into such fourth Part within seven Years after they are felled, the Owner of such Cattle shall forfeit for every such Beast 4 s. And if the Owner of such Wood or Coppice cut down any Trees or Under-woods there, contrary to the Form aforesaid, he shall forfeit for every Tree so cut down 6 s. 8 d. and during that Seven Years, the Commoners shall have no Right of Common there, and the Lord shall be barred to common in the Residue; but, after the seven Years, they may both intercommon in the Whole. And, in Case the Lord doth not fell the fourth Part within a Month after it is inclosed, the Commoners may put in their Cattle as before.

This Act doth not extend to Under-woods in Kent, Surry, and Sussex, save only to the common Woods there.

By Stat. 13 El. c. 25. all Woods or Coppices mentioned in Stat. of 35 H. 8. c. 17. if above 14 Years, and under 24 Years Growth, must be preserved for 8 Years.

If above 24 Years, must be preserved for 9 Years.

No Cattle shall be put in from the Time of Felling such Coppices, till five Years afterwards; nor then neither, but Calves or yearly Colts, until the End of six Years, if the Coppice was under four Years Growth.

By Stat. 1 El. c. 15. none shall convert or employ to Coal, or other Fuel for the Making of Iron, any Timber Tree or Trees of Oak, Beech or Ash, of the

The Method of the Lord's inclosing Wood where others have Common.

Woods above 14 Years old, and under 24, must be preserved for 8 Years.

None shall convert to Coal, &c. any Timber, &c.



the Breadth of a Foot square, at the Stubs, and growing within fourteen Miles of the Sea, or of any Part of the *Thames*, *Severn*, *Wye*, *Humber*, *Dee*, *Tine*, *Tees*, *Trent*, or other navigable River, on Pain to forfeit 40 s. for every Tree so converted; to be divided between the King and Prosecutor.

This Act not to extend to *Sussex*, the Wild of *Kent*, or to the Parishes of *Charlewod*, *Newdigass*, or *Leigh*, in the Wild of *Surry*.

Woods, &c.  
not to be converted into  
Coal, &c.

By Stat. 23 El. c. 5. Woods or Underwoods shall not be converted into Coal for making Iron, which grow,

1. Within 22 Miles of *London*, or Suburbs.
2. Or within that Distance of the *Thames*, from *Dorchester* in *Oxfordshire* downwards.
3. Or within 4 Miles of the Foot of the Downs, between *Arundel* and *Pevensey* in Com' *Sussex*.
4. Or within 4 Miles of *Winchelsea* or *Rye*, 2 Miles of *Pevensey*, 3 Miles of *Hastings*.

The Penalty is 50 s. per Load, between King and Prosecutor.

This Act doth not extend to Woods growing in the Wilds of *Surry*, *Sussex* or *Kent*, within 22 Miles of *London* or *Thames*, so as they are distant above 18 Miles from *London* or *Thames*.

No new Iron  
Works to be  
set up.

No new Iron Works shall be erected within 22 Miles of *London*, 14 Miles of the *Thames*, or 4 Miles of the said Downs, *Pevensey*, *Winchelsea*, *Hastings* or *Rye*, on Pain of 100 l. to be divided as aforelaid.

Nor Furnaces,  
&c.

By Stat. 27 El. c. 19. Furnaces, &c. shall not be erected in *Sussex*, *Surry*, or *Kent*, otherwise than upon old Bays or Fens, where such Works have been lately standing, or upon Lands, where such Works may be continually supplied with Woods of the Owner of such Furnace, without committing Waste; nor shall convert to Coal or other Fuel, for the making any Iron, any sound Timber Tree of Oak, Ash or Elm, which shall bear a Foot square at the Stub, or any Part thereof, on Pain, for every new Work set up, of 300 l. and for every Timber Tree so converted 40 s. to be divided betwixt the King and Prosecutor.

But Lops of  
such Trees  
may be coal-  
ed, &c.

Lops of such Trees may be coaled in those Counties, but not within 18 Miles of *London*, 8 Miles of the *Thames*, 4 Miles of *Rye* and *Winchelsea*, 3 Miles of *Hastings*, or 4 Miles of the Foot of the Downs, between *Arundel* and *Pevensey*.

# Tool

## Wool and Woollen. See Cloth.

**I**N the former Part of this Treatise, (Title Cloth) Mention has been made of the great Care which has been all along taken to support and maintain the Manufacture of Woollen Cloth; and of the many Statutes relating thereunto; and, the better to keep it in this Kingdom, several other Laws to prevent the Exportation of Wool, &c. under severe Penalties, have been made, viz.

Statuta Sta-  
pulz.

By the Statute of the Staple, made above 350 Years ago, none shall transport Wool, Leather, or Woolfells, to *Berwick* or elsewhere into *Scotland*; or if they do, they shall be Felons.

And by a Statute made 27 E. 3. c. 3. it was made Felony, with the Forfeiture of Lands and Goods, for any *English*, *Welsh*, or *Irishman*, to transport Wool, Leather, Woolfells, or Lead: Nor no *English*, *Welsh*, or *Irishman*, shall transport Wool, Leather, Woolfells, or Lead, in a Stranger's Name.

'Tis true, this Punishment continued but 11 Years; for Anno 38 E. 3. c. 6. that Part of the Statute which made the Offence Felony, was repealed; but the Forfeiture of Lands and Goods still remained.

And by Stat. 23 E. 3. c. 9. none shall buy or sell Wool at more Weight than 14 Pounds to the Stone, on Pain to forfeit double to the Party grieved, and a Fine to the King.

But these, and some other old Laws relating to this Subject, being grown obsolete, and great Quantities of our Wool being from Time to Time transported beyond Seas, to the great Detriment of the Woollen Manufacture, soon after the Restoration of King Charles the Second, viz. Anno 12 Car. 2. c. 32. a new Statute was made, by which those who exported or loaded on Carriages, in order to be transported to *Fersey*, *Guernsey*, *Sark*, and *Alderney*, from *England*, *Wales*, *Town of Berwick*, or *Ireland*, any of the following Goods, forfeit the same.



## Wool and Woollen.

543

Fullers Earth or Clay.

Morlings.

Sheep.

Shorlings.

Wool, *English* or *Irish*.

Woolfells.

Yarn made of Wool.

These Goods  
not to be trans-  
ported on Pain  
to forfeit them.

And, over and above these Forfeitures, for every And other Pe-  
Sheep exported 1 *l.* and for for every Pound-Weight nalties,  
of the other Goods 3 *s.* And the Owners of such Ships,  
knowing such Offence, forfeit all their Interest in the  
said Ships; and Masters and Mariners assisting forfeit  
all their Goods, and to be imprisoned for three Months,  
without Bail; one Half of the Forfeitures to the  
King, the other to the Prosecutor, in any Court of  
Record, &c.

Those who were convicted of having transported, or  
caused to be transported, any of those Goods, were  
disabled to sue for any Debt.

These Forfeitures were to be recovered at the Ses- Prosecution  
sions in that County where the Offence was committed, must be in  
or where the Offender shall be taken; but it was to three Years.  
be within a Year. But by Stat. 9 & 10 *W. 3.* the  
Time is enlarged to three Years after the Offence  
committed.

If any one find such Goods on board, or pack- Any one may  
ed or loaded on any Carriage, or laid near any seize them.  
Water to be exported into *Scotland*, or any foreign  
Parts, he may seize the same, and shall have the full  
Moiety to himself; but then he shall not be an Evi-  
dence upon Oath to convict the Offender, &c.

All Vessels whereof any Alien, or natural-born Sub- Aliens Vessels  
ject, if not inhabiting in *England*, shall be Owner, or forfeited, &c.  
Part-Owner, wherein any of the Goods aforesaid shall  
be shipped contrary to this Act, shall be forfeited to  
the King.

Lamb-skins ready dressed are excepted, and Neces-  
saries for the Ships and Persons therein.

None of the Goods aforesaid shall be transported If transported  
out of *England*, *Wales*, *Berwick* or *Ireland*, into *Jersey*, to *Jersey*, &c.  
*Guernsey*, *Sark* or *Alderney*, only Wool from the Port must be from  
of *Southampton*, for the Use of the Inhabitants of those Southampron,  
Isles; and the Exporter must give a Writing, under the Quantity  
the Seal of the Governors of those Isles, or their De- of, &c.  
puties, purporting that the Party is authorized to  
export so many Numbers of Tods, and hath entred  
into sufficient Bond, to his Majesty's Use, for landing  
them there. The Wool, so exported, not to exceed  
yearly

## Wool and Woollen.

yearly unto *Fersey* 2000 Tods of unkemb'd Wool, to *Guernsey* 1000, to *Alderney* 200, to *Sark* 100.

Customer of  
Southampton  
to keep an Ac-  
count.

The Customer of the Port of *Southampton* shall keep an Account of the Wool so permitted to be loaden, on Pain to forfeit 100*l.* to him who will sue for the same, and to lose his Place. And if any of the Governors aforesaid, or their Deputies, licence to export more, they shall forfeit 20*l.* for every Tod licens'd above the Proportions aforesaid.

But 12 d. Fee,  
&c.

No more than 12 d. shall be taken for writing such Licence, and entering a *Memorandum* of it, on Pain of 5*l.* for every Penny taken over, to the Party grieved.

14 Car. 2. c.  
18.

But, notwithstanding this Law, great Numbers of Sheep, and much Wool, were transported to foreign Parts; and therefore, two Years afterwards, another A& passed to make it Felony to export any of the Goods above-mentioned, or to pack or load upon any Carriage, or lay on board in any Vessel, any such Sheep, Wool, &c. to export the same. 14 Car. 2. cap. 18.

And Owners of such Vessels, and their Horses, Carts and Carriages, upon which the Sheep, or other the Goods aforesaid, shall be exported or carried to such Intent, knowing thereof, and consenting thereunto; and also Masters and Mariners of such Vessel, wherein any Sheep or other the said Goods shall be so exported or laid on board to any such Intent; and all other Persons knowing thereof, and consenting thereto, shall be adjudg'd Felons.

Transporting  
Wool a com-  
mon Nuisance.  
None shall  
press Wool,  
&c. with  
Screws.

The said Offences are declared by the said A& to be a common Nuisance.

None shall press together with any Screws, Presses or other Engines, into any Sack, Bag, &c. nor shall put or press any Wool, Yarn made of Wool, into any Cask or Vessel; nor shall lay or cause to be laid near the Shore or Coasts of the Seas, or any navigable River, or into any House or Place adjoining thereunto, any such Wool, Wool-flocks, or Yarn made of Wool, to export the same, on Pain to forfeit it, or the Value.

No Tobacco-  
Pipe Clay to  
be transported.

No Tobacco-Pipe Clay shall be exported out of *England*, *Berwick*, *Ireland* or *Wales*, on Pain to forfeit 3*l.* for every Pound so exported.

Nor carried  
from Place to  
Place but in  
the Day-time.

None of the Goods aforesaid shall be laid on any Carriage, or be conveyed from Place to Place, from the first of *March* to the 29th of *September* yearly, but between the Hours of Four in the Morning and Eight in

in the Evening, and from the 29th of *September* to the first of *March*, yearly, between Seven in the Morning and Five in the Evening, on Pain to lose all such Goods, or the Value thereof, one Moiety to the King, the other to the Prosecutor.

This Act not to make void any Penalties or Clauses in the said Statute of 12 Car. 2. c. 32.

Owners of any Vessel, or Master, or Mariners, knowing of such Transportation, and within three Months after such Knowledge, or after their Return to *England*, *Berwick*, *Ireland* or *Wales*, shall give the first Information thereof, before any of the Barons of the Exchequer of *England* or *Ireland*, or the Head Officer of any Port where they shall first arrive, upon Oath, of the Number and Quantity of the Goods so transported, and by whom, where, and in what Vessel, and afterwards shall be ready to prove the same, shall not be punished as a Felon, but shall be subject to all other Penalties in this Act contained. Offences against that Act may be tried at Sessions. 14 Car. 2. c. 18.

If Masters of Vessels, &c. discover in 3 Months, shall not be punished as Felons.

So much of the last mentioned Act as relates to the 7 & 8 W. 3. making the said Offences Felony, is repealed by Stat. c. 28. 7 & 8 W. 3. c. 28.

By Stat. 13 & 14 Car. 2. c. 19. the Importation of foreign Wool, Cards, Card-Wire, &c. is prohibited. Vid. the Act.

No Wool, Cards, &c. to be imported, &c.

By Stat. 1 W. & M. c. 32. Owners of Wool, or their Agents, who shall at any Time carry, or cause to be carried, any Wool to any Port or Place on the Sea Coasts, to be conveyed to any other Port or Place on the Sea Coasts, to be conveyed to any other Port or Place in *England*, *Wales* or *Berwick*, from whence the same may be transported into foreign Parts, shall first cause a due Entry to be made at the Port from whence it shall be intended to be conveyed, containing the Weights, Marks and Numbers thereof, before they carry it within five Miles of any such Port or Place, or else the Goods carried are forfeited, and so are the Beasts and Carriages; and the Persons conveying, driving or abetting, shall forfeit and suffer as by the Laws and Statutes in Force against the Exportation of Wool.

Wool carried to the Sea-Coasts must be entred, &c.

1 W. & M. c.

But People may carry their Wool from the Shearing Place to their own Houses, tho' within 5 Miles of the Sea, so as within ten Days after the Shearing, and before they dispose of the same, they certify, under their Hands, to the Custom-house Officer of the next to their own Port, the Number of Fleeces, and where housed, and

But People may carry their Wool from Shearing Houses, &c.



do not remove the same, without certifying the Officer again, under their Hand, of their Intention to remove it, at least three Days before the Removal, or else shall be liable to all the Penalties against the Exportation of Wool.

Officers must register Certificates, &c.

And the Officers must keep and register such Certificates, and Cocquets for carrying Wool from any Port in *England, Wales or Berwick*, shall be written upon Paper, and signed by three Chief Officers of such Port at least; and Certificates of landing them again in any other of the said Ports, or from *Ireland*, shall be so signed; and all such Wool, both at shipping and landing, shall be weighed in the Presence of the said Officers, giving such Cocquets and Certificates; and the Weights, Marks and Numbers of such Wool shipped and landed, shall be expressed in both Cocquet and Certificate.

Or be punished as Transporters of Wool, &c.

Officers not observing the Directions of this Act, shall be adjudged Abettors of the Transportation, and suffer the Penalties contained in the Statutes of 12 & 14 Car. 2. against Transportation of Wool.

The Quantity to be transported to Jersey, &c.

It shall be lawful to transport from *Southampton*, for the Use of the Inhabitants of *Fersey, Guernsey, Alderney*, and *Sark*, 1000 Tods of uncomb'd Wool for *Guernsey*, 2000 for *Fersey*, 200 for *Alderney*, and 100 for *Sark*, more than by the Act made 12 of Car. 2. is provided for the same, to be done according to the Directions and under the Penalties therein appointed, and under the further Penalty of 20 £. for every Tod of Wool, and Forfeiture of the Wool itself, (one Half to the King, one Quarter to the Informer, and one Quarter to the Poor of the said Islands) in Case of transporting, or attempting to transport any of the Wool from the said Islands, for every Offence therein; and every Offender shall be incapable of a Grant of any Wool from the said Port of *Southampton*, nor ever after have any Warrant granted him for that Purpose.

And by Stat. 5 Geo. I. c. 11. the Provisions which are made against exporting Wool by the Stat. 1 W. & M. c. 32. shall extend to Woolfels, Mortlings, Shertlings, Woollen Yarn, Woolflocks, Fullers Earth, Fulling Clay, and Tobacco-Pipe Clay, carried coast-wise.

By Stat. 7 & 8 W. 3. c. 28. all Certificates for the landing of Wool shall be written upon Paper, and not Parchment, and not obliterated or interlined.

No Wool, Woolfels, Worlings, Shortlings, Yarn No Wool, &c. made of Wool, Woollocks, Fullers Earth or Scouring Clay, shall be carried or conveyed by Land to or from any Place in the Counties next adjoining to Scotland, or within five Miles of the Sea-Coasts, but between the Sun-rising and Sun-setting, under Penalty of Forfeiture of the said Commodities, and the Horses and Carriages employed in carrying the same, and no Ship or Vessel shall export the same to any Port beyond the Seas, under the Penalty and Forfeiture of the said Vessel, and treble the Value thereof, with treble Costs of Suit. And the Inhabitants of the Hundred or Place next adjoining to the said Kingdom of Scotland, or to the Sea-Coasts, out of or thro' which any of the said Commodities shall be carried or exported, shall forfeit 20 l. if the Wool so carried be under 20 l. Value; if above, then treble the Value and treble Costs.

to be carried within 5 Miles of the Sea, but in Day-time, &c. 7 & 8 W: 3. c. 28. Hundred thro' which, &c. forfeit 20 l.

All which Forfeitures go to the Prosecutor, to be recovered by him who will sue for the same in any Court of Record at Westminster, where no Effin, &c. shall be allowed, nor but one Impurance.

Execution for the Informer may be had against two or more of the said Inhabitants; and after such Execution, the Justices of Peace (upon Complaint of the Party or Parties so charged) may at their Quarter-Sessions assess and tax ratably and proportionably, all the Towns, Parishes, and Hamlets in the said Hundred or Place, in the same Manner or Form as an Hundred ought to be charged in Case of Robbery, by the Statute of 27 El. c. 13. and thereby reimburse the Parties charged.

All who are convicted of Aiding, Abetting, or Assisting to the Carrying or Exporting any of the said Commodities, shall be committed Three Years without Bail; and both they and the Owners of the said Goods, shall satisfy treble the Value of such Forfeitures, with which the Inhabitants of those Hundreds shall be charged, and treble Costs of Suit; and this shall be for the Use of the said Inhabitants, to be recovered by Action of Debt, &c. in the Name of the Clerk of the Peace of such County (without naming his Christian or Surname) to the Use of the said Inhabitants; and notwithstanding the Death or Removal of each Clerk of the Peace, the said Suit shall not discontinue, but be prosecuted to Judgment.

But the Jury must not be of that County where the Fact was committed.

N n 2

The County where the Fact was committed.

The first three Informers shall be acquitted.

The first three Persons who have been aiding or assisting in carrying out or exporting Wool or any of the said Commodities, and who shall inform any Justice of Peace of those Northern Counties, whereby the aforesaid Punishment and Penalties may be inflicted and recovered, such Discoverers not being the Owner of the Wool, &c. shall be acquitted.

Prosecutor compounding, another may sue, &c.

If any Person to whom any Forfeitures by this Act are given, shall compound for the same for less than what is given by the said Act, it shall be lawful for any other Person to sue for and recover the same, in Manner and Form as aforesaid; and the Person compounding shall suffer Five Year's Imprisonment.

If Action brought against Justice, he may plead general Issue, &c.

If any Action be brought against any Justice of Peace, or other Person employed in the Execution of this Act, for any thing done by Virtue of this Act, the Action shall be laid in the proper County, and the Defendant may plead the general Issue, and give the Special Matter in Evidence; and if the Plaintiff be nonsuit, or discontinue, or the Jury find for the Defendant, he shall have treble Costs. And every Suit or Information, by Virtue of this Act, shall be commenced within one Year after the Fact committed.

1 W. & M. c. 32. continued, &c.

The first Act 1 W. & M. c. 32. was Temporary, but continued by 4 & 5 W. 3. and further continued by 7 W. 3. which was also continued by 9 & 10 W. 3. c. 40. that being explanatory of the former Laws. And by which it is enacted that no Fuller's Earth or scouring Clay shall be exported out of this Kingdom into Ireland, Scotland, or any other foreign Parts, but the Exporter shall forfeit One Shilling for every Pound-Weight.

Owners of Wool within 10 Miles of the Sea, must give an Account, &c.

All Owners of Wool, thorn, housed, or lodged within Ten Miles of the Sea side in Kent and Sussex, shall give an exact Account in Writing, within three Days after Shearing, of the Number of Fleeces, and where lodged or housed, to the next adjoining Port or Officer of the Customs, and the like Notice before Removing thereof, and the Name and Abode of the Persons, and to whom disposed, and where intended to be carried; and shall take a Certificate of such Entry on Forfeiture of the Wool not entred, or otherwise disposed of, and a Penalty of Three Shillings per Pound for such Wool, as if it had been actually transported; which Entries are to be made *Gratis*, and Certificates given without Delay, specifying the Names of the Owners and Buyers thereof, and limiting it to such Times



Times and Places to be removed, taking Six-pence, and no more for such Certificate.

No Persons residing within 15 Miles of the Sea, Persons within 15 Miles of the Sea, must give Bond. in *Kent* or *Sussex*, shall buy any Wool before they enter into Bond to the King, with Sureties not to sell the said Wool to any Person within 15 Miles of the Sea; and if any Wool be carrying towards the Seaside in those Counties, unless entred and Security given, the same shall be forfeited, and Three Shillings for every Pound-Weight.

No Wool removed from the Place where it was first housed after Shearing, within 10 Miles as aforesaid, shall be lodged after the first Removing, within 15 Miles of the Sea in those Counties, on Pain of Forfeiture if found; but if carried away, then the Owner to forfeit Three Shillings per Pound-Weight.

All Persons laying or hiding any Wool within 15 Miles of the Sea not entred, such Wool shall be seized and forfeited, and the Persons claiming the same, shall give Security in the Exchequer (if cast upon a Trial) to pay treble Costs over and above the Penalties and Forfeitures.

The general Issue may be pleaded, and the Special Matter given in Evidence; and if the Plaintiff is Nonsuit or discontinue, or the Jury find for the Defendant, the Defendant shall have treble Costs.

The Forfeitures are to be divided, viz. one Third to the King, the other two Thirds to him who seizes or sues for the same.

The King may cause such Persons as are Guilty of transporting any Wool, Woolfels, Fuller's Earth, or Scouring Clay, to be prosecuted at any Time within Three Years after the Offence committed. Offenders may be prosecuted in 3 Years.

All Owners of Wool shorn, laid up, or lodged within 15 Miles of the Borders of Scotland, shall give an exact Account of the Number of Fleeces, and where lodged, to the Persons appointed, pursuant to the Act of 17. & M. c. 32. which Persons shall give Attendance for that Purpose at the several Ports and Market-Towns within the aforesaid Distance, and shall make a true Entry of such Wool in a Book for that Purpose; and the Owners of such Wool neglecting or refusing to give such Notice, or removing such Wool after Notice given, without Licence, shall forfeit Three Shillings for every Pound-Weight of such Wool. And all the Wool found within the Distance aforesaid of the Borders of Scotland, not entred, shall be forfeited.

Hundred of  
Winchelsea  
shall be two  
Hundreds.

The Hundred of *Winchelsea* in the Cinque Ports, being divided by a navigable Arm of the Sea, shall be taken, in respect of the Act of 7 & 8 W. 3, c. 23, as two distinct Hundreds, viz. the Part of the one Side of the said Arm, and that on the other, each as an entire Hundred; and the Penalties for suffering such Exportations shall be levied on that Part of the said Hundred only which lies on the same Side of the said Arm out of which such Exportation was made and permitted. But the said Hundred shall not be divided in any other Particular but this only.

None to trans-  
port Wool, &c.  
out of Ire-  
land, &c.

By Stat. 10 & 11 W. 3, c. 10. none shall export or convey out of *Ireland* into any foreign Parts, other than in *England* or *Wales*, any of the Goods following:

Bays,  
Cloths,  
Cloth Serges,  
Druggets,  
Drapery Stuffs,  
Furzes,  
Kerseys,  
Mortlings,  
Says,  
Serges,

Shortlings,  
Wool,  
Woolfels,  
Woolflocks,  
Worsted Bays,  
Woollen Yarn, or made  
or mingled therewith,  
Or Woollen Manu-  
factures whatsoever,

Or load any such Goods on any Horse, Cart, or Carriage, in any Place of *Ireland*, with Intent to transport or convey the same out of *Ireland* into any Ports or Places, except as aforesaid.

The Penalties,  
&c.

All Offenders and Offences aforesaid shall be liable to the following Penalties; viz. the said Goods so exported, conveyed, or laden, shall be forfeited, and the Offender shall forfeit 500*l.* for every such Offence. And every Ship and Vessel, wherein any of the said Commodities shall be so laid on Board, shall be forfeited with all her Tackle and Furniture; And the Masters and Mariners thereof, or any Porters, Carriers, Wagoners, Boatmen or others, wittingly aiding and assisting therein, shall forfeit 40*l.* and Moiety to the Prosecutor in *England* or *Ireland*, and the other to the Encouragement of the Linen Manufactures in *Ireland*, to be disposed of by the Court of *Exchequer* there, for that Use only.

No Acquittal  
to be plead-  
ed in Bar, &c.

No Acquittal nor any Indictment, Information, or Suit (unless the Offender be thereupon convicted) in *Ireland* for any the said Offences, shall be pleaded or allowed.

allowed in Bar or Delay of any Indictment, Information or Prosecution in *England*.

Any Persons may seize and carry to the King's next Ware-house, all such Goods, &c. as shall be laid on Board any Vessel, or laid on Shore at or near the Sea or any navigable River, or shall otherwise be laden with Intent to be transported or conveyed out of *Ireland* into any foreign Parts; and the Ship or Vessel wherein any of the said Commodities shall be put on Board, may be also seized, and the Persons seizing are indemnified by this Act for so doing.

Any Person may seize Wool, &c.

For every Ship or Vessel which sails from *Ireland* with any of the said Commodities to this Kingdom, sufficient Bond shall be given to the chief Officers of the Customs there, in double the Value of the Goods intended to be transported, before the Lading thereof, that all the said Goods shall be brought to some Port in *England* or *Wales*, and there unloaded, and the Customs paid; and if loaded before such Bond given, the Ship or Vessel is forfeited.

Bond must be given for every ship sailing from *Ireland*, &c.

A Register is to be kept at the Custom-house, *London*, of all the said Goods imported from *Ireland* into *England* or *Wales*, with the Qualities and Quantities thereof, the Owner's and Master's Names, and to whom consigned.

A Register must be kept at the Custom-house.

All Cocquets and Warrants for such Goods, must be written on Paper, and not Parchment, and signed by three of the chief Custom-house Officers where laden, and the Quantities, Qualities, Marks and Numbers of the said Goods, shall be indorsed on the Cocket Warrant, and on the Certificate for discharging the Bond.

The Quantities, Qualities, Marks and Numbers in the Certificate, shall not be obliterated or interlined.

The Commissioners of the Revenue, or Farmers of the Revenue in *Ireland*, shall once every six Months, transmit to the Commissioners of the Customs in *England*, an Account of all such Goods exported from *Ireland*, and Duplicates of the Bonds, in what Ships exported, and to what Ports consigned, and who signed the Certificates of Landing the same, and when, in order to be compared with the Register.

Commissioners, &c. in *Ireland*, shall transmit an Account every six Months, &c.



Goods may be transported, &c.

But such Goods may be transported,

From { *Cork,* | *Kingale,*  
          { *Drogheda,* | *Waterford,* } in *Ireland.*  
          { *Dublin,* | *Youghal.*

To { *Barnstable,* | *Chester,*  
      { *Biddisford,* | *Liverpool,* } in *England.*  
      { *Bridgewater,* | *Milfordhaven,*  
      { *Bristol,* | *Minehead.*

On giving Notice, &c.

So as Notice be first given to the Commissioners of the Customs here, or to the Customer or Collector in the Port to which the same is intended to be brought,

Of the { *Quality,*  
          { *Quantity,*  
          { *Package,*  
          { *Marks,*  
          { *Number thereof,*  
          { *Name of the Ship,*  
          { *Name of the Master,*  
          { *Place or Port,*  
          { *Where intended to be brought.*

And bond entered into to the King, &c.

And Bond entered into to the King, with one or more Sureties, to treble the Value of the Goods, that the same (Danger of the Seas excepted) shall be landed accordingly.

And Licence obtained, &c.

And there must be a Licence under the Hands of three of the Commissioners, or under the Hand of the chief Customer or Collector of the Port where the Bond is given for the Landing and Importing such Goods, &c.

Which must not be assigned.

The Penalties and Forfeitures of the Bonds for any Wool, &c. so exported, shall not be assigned over to any other Person.

Penalty of signing any Cocket, &c.

If any Commissioner or Farmer of the Revenue in *Ireland*, or their Officers, shall sign any Cocket or Warrant for an Entry outward for exporting such Goods into foreign Parts, or connive at the same, contrary to this Act, or neglect their Duties required by this Act, he shall forfeit his Office and five hundred Pounds for every such Offence.

Every Offence contrary to this Act, may be tried where such Goods shall be put on Board, or in the County

County in *England* or *Ireland* where the Offender shall be apprehended, or the Ship or Vessel seized.

If sued for any thing done in Pursuance of this Act, the general Issue may be pleaded, and the special Matter given in Evidence; and if the Plaintiff is Nonsuit or discontinue, or a Verdict or Judgment pass against the Plaintiff, the Defendant shall have treble Damages and treble Costs.

The Lord High Admiral of *England*, or Commissioners of the Admiralty, shall appoint two fifth Rate, and two sixth Rate Ships, and eight armed Sloops to cruize on the Coasts of *England* and *Ireland*, and between the North of *Ireland* and *Scotland*, to seize all Ships and Vessels exporting Wool to foreign Parts, and shall send a List of such Ships and Sloops, and their Commanders Names, and Copies of their Instructions to the Commissioners of the Customs in *London* within ten Days.

All Wool, Ships, and Vessels, so seized, shall be forfeited, and the Wool lodged in the King's Warehouse till condemned, and then sold after one and twenty Days publick Notice at the Custom-house, and on the *Royal-Exchange* in *London*, by Inch of Candle, with the Guns, Tackle, &c. of such Ships and Vessels, whereof one fourth Part to be to the Commander, another to the Officers who took the same, another to the Mariners, the other to the King, the Charges of Prosecution being deducted out of the King's Part.

Every Commander of such Ship, &c. neglecting his Duty, or conniving at the Exportation of any Wool, shall lose his Wages, and suffer six Months Imprisonment, and be incapable of any Office in the Navy.

No Wool, Woolfels, Yarn, Cloth, or Woollen Manufactures of the *English* Plantations in *America*, shall be shipped in any of the said *English* Plantations, or otherwise loaden in order to be transported thence to any Place whatsoever, under the same Penalties and Forfeitures; and the Governours of the Plantations and Officers of the Customs and Revenues there, are to see this Act, as it relates to the Plantations, duly executed.

All Offenders against this Act, or any other for preventing the Exportation of Wool, may be prosecuted in any of the Courts at *Westminster*, by *Capias* in the first Process, and shall give good Bail for their Appearance, and answering the Penalties in Case of Conviction.

But

Wool for  
Ship's Use al-  
lowed.

But some Disputes having arisen concerning this Act last mentioned, therefore by another Act made in the very next Year, viz. 11 & 12 W. 3. c. 31. it is declared that that Act shall not subject any Person or Vessel to the aforesaid Penalties, for or concerning such Woolfels as shall be necessary for the Gunner or Boatwain's Stores, or for such other Woollen Manufactures as shall be for the proper Use for Cloaths of Seamen, or Passengers for their own Wearing, and shall not exceed above 40 l. for one Mariner.

New-Ross  
made a Town  
for exporting  
Wool, &c.

By Stat. 4 Ann. c. 7. the Town of New-Ross in the County of Wexford, in the Kingdom of Ireland, was made a Port for the Exporting Wool from Ireland to this Kingdom.

No Wool to be  
laid near the  
Sea in Ireland.

By Stat. 3 Geo. 1. c. 11. all Wool, Woolfels, &c. or any Drapery Stuffs, or Woollen Manufactures whatsoever, which shall be brought and laid on Shore near the Sea or any navigable River whatsoever, with Intent to be exported out of Ireland, contrary to the Meaning of the Act 10 & 11 W. 3. c. 10. shall be forfeited, and the Offenders shall be liable to the like Forfeitures, &c. as Persons by that Act are subject to, and such Forfeitures, &c. shall be recovered and distributed as the other Forfeitures, &c. in that Act are to be.

Offender not  
pleading, Judg-  
ment shall be  
entred against  
him by De-  
fault, and he  
shall be trans-  
ported.

By Stat. 4 Geo. 1. c. 11. it is enacted, that if any Person, in Prison for Want of sufficient Bail for unlawful Exportation of Wool or Woolfels, shall refuse to appear or plead to a Declaration or Information to be delivered to him or to the Gaoler or Turnkey at the said Prison, by the Space of one Term, Judgment shall be entred against him by Default; and if Judgment be obtained against him by Default, Verdict, or otherwise, and he shall not pay the Sum recovered against him within three Months after entring up of such Judgment, the Court before whom such Judgment shall be obtained, shall cause him to be transported as Felons are, for Seven Years; and if he shall return into Great Britain or Ireland before the Expiration there, he shall suffer as a Felon, and have Execution awarded against him as Persons attainted of Felony, without Benefit of Clergy.

This Act shall not extend to Persons convicted or attainted in Scotland, but shall extend to the Plantations in America, and be taken as a publick Act.

One Moiety  
of Forfeiture  
to the King,  
&c.

By Stat. 3 Geo. 1. c. 21. the Moiety of all the Penalties and Forfeitures which by the Act 10 & 11 W. 3. c. 10. were inflicted for preventing the Exportation of Wool



Wool and other Woollen Goods therein mentioned, out of Ireland, other than into England and Wales, (after a Deduction made out of the said Moiety of the Charges of Prosecution and Condemnation) shall be to the Use of his Majesty, his Heirs and Successors.

All Actions and Informations which shall be commenced or prosecuted by Virtue of any Act for preventing the Exportation of Wool or Woollen Manufactures from Ireland, shall be tried in any of the four Courts at Dublin, by a Jury of Freeholders, to be summoned out of any other County than that where in the Fact was committed: And to encourage Persons to discover the said Crime, the first Three, who have been aiding, abetting, or assisting in carrying out or exporting Wool or Woollen Commodities, who shall inform any Justice of Peace thereof, whereby the Punishment and Penalties appointed by this Act may be inflicted and recovered, such Discoverer (not being the Owner or Part-Owner thereof) shall not suffer any of the Penalties and Punishments to be inflicted by this or any other Act.

Where Actions, &c. shall be tried.

The first three Informers shall not suffer any Penalties, &c.

The Acts of 30 Car. 2. c. 3. and 32 Car. 2. c. 1. for burying in Woollen.

By Stat. 30 Car. 2. c. 3. every Corpse must be wrapped up and buried in Woollen, nor must it be put in any Coffin lined or faced with any thing but Sheep's Wool only, on Pain of forfeiting  $\frac{1}{2}$  the Moiety to the Poor of the Parish where buried, and the other to the Prosecutor.

Acts 30 Car. 2. c. 3. and 32 Car. 2. c. 1. for burying in Woollen.

All Rectors, Vicars, Curates, &c. must keep a Register of all Persons buried within their Parishes, Bounds or Burying Places; and some Person within eight Days after the Burial, must bring to the Minister an Affidavit under the Hands and Seals of two Witnesses, and the Justice of Peace, Master in Chancery, Ordinary or Extraordinary, Mayor, Bailiff, or chief Officer, &c. before whom it shall be sworn, for which no Fee shall be paid; purporting that the Party deceased was wrapped up in and buried in Woollen, and was not buried in any Coffin lined or faced with any thing but Sheep's Wool only. And if such Affidavit be not brought to the Minister within eight Days, then the Minister shall give Notice and certify under his Hand, to the Church-wardens and Overseers of the Poor of the Parish where the deceased was buried, who shall within eight Days after such

All Ministers, &c. must keep a Register; and an Affidavit must be brought in 8 Days, &c.

The Penalties, &c.

Notice,

Notice, bring the Certificate of the Minister to the Justice of Peace, who shall thereupon grant a Warrant to levy the Forfeiture of 5*l*.

1. On the Goods of the Party deceased; and if he hath none, then

2. On the Goods of the Person in whose House he died;

3. Or on the Goods of any who had a Hand in putting him into the Coffin, or that ordered the same.

4. And if a Servant, and dying in his Master's Family, then on the Master's Goods.

5. And if a Child, then on the Parents Goods.

The said Forfeitures to be first paid out of every such Offender's Estate, before any Debt or Duty whatsoever.

Ministers or Justices, &c. not doing their Duties, forfeit 5*l*.

Ministers, Justices of Peace, Magistrates, neglecting their Duties, forfeit 5*l*. for every Offence; to be recovered by Action of Debt, Bill, Plaint, or Information, so as it be commenced within six Months after the Offence. One fourth to the King, two other Parts to the Poor, &c. where the Offender dwells, the other fourth Part to the Informer.

Where no Affidavit, a Memorial must be entered in the Register.

And in the said Register-Book to be provided at the Charge of the Parish; and kept by the Minister as aforesaid, shall be entered all the Burials and Affidavits concerning the same; and where no Affidavit shall be brought, a Memorial thereof shall be entered against the Name of the Party interred, and of the Time when he notified the same to the Church-wardens or Overseers of the Poor.

Overseers must give an Account of Burials, &c.

And when such Overseers of the Poor give up their Accounts at the General or Special Sessions, or to any two Justices of Peace, at their Monthly Meetings, they shall give an Account of the Name and Quality of every Person interred since their former Account, and of such Certificates above-mentioned, and of their levying the Penalties aforesaid, and Disposal of the same, on Pain of 5*l*. to be levied by Distress, by Warrant from the said Justices, or two of them. And no Account of any Overseers of the Poor shall be allowed until they shall account for such Burials, &c. but this Act shall not extend to Persons dying of the Plague.

Where no Justice of Peace, Ministers may give the Oath, &c.

By Stat. 32 Car. 2. c. 1. where no Justice of Peace doth reside, or be not to be found in any Parish where any Person shall be interred, the Oath or Affidavit for burying in Woollen, may be administered not only by such Magistrates as are mentioned in the former Act, but also by the Parsons, Vicars, and Curates in every

every Parish or Chapel of Ease, within the County where the Party shall be interred (except the Parson, Vicar, or Curate of the Parish or Chapel of Ease where the Party is interred) who are authorised and required to administer the said Oaths or Affidavits, and to attest the same under their Hands *gratis*.

## The Form of an Affidavit that one was buried in Woollen.

Midd. ff. **J.** S. of the Parish of St. Martin's in the 30 Car. 2. c. Fields, in the County aforesaid, Gent. maketh 3, and 32 Car. Oath that M. S. his late Wife, now deceased, 2. c. 1. was interred in the Parish Church of St. Martin's aforesaid, on the Day of last past; and that the said deceased was not put in, wrapped or bound up, or buried in any other Thing than what is made of Sheep's Wool only, nor in any Coffin lined or faced with any other Material, or Thing whatsoever, but Sheep's Wool only. Dated the Day of in the First Year of the Reign of our Sovereign Lord George the Second, of Great Britain, France and Ireland, King, Defender of the Faith, &c. Annoq; D'ni, 1727.

J. S.

*Jur' coram, &c.*

Signed and Sealed according to the several Statutes in this Case made and provided, by us who were present and Witnesses to the Swearing this Affidavit. A. B. C. D.

A Cer-



**A Certificate by a Justice of Peace of the making the above-written Affidavir.**

Midd. ff. **M**emorand', that J. S. of the Parish of St. Martin's in the Fields in the County aforesaid, Gent. came this present Day of 1727. before me J. S. Esq; one of his Majesty's Justices of Peace for the said County, and made such Affidavit as is above-written, pursuant to an Act of Parliament made in the 30th Year of his late Majesty King Charles the Second, entituled, (An Act for burying in Woollen.) Witness my Hand the Day and Year above-written.

Or thus :

One of the Masters of his Majesty's Court of Chancery, in Ordinary or Extraordinary, or, Mayor of the Town of L. or, one of the Bailiffs of the Town of L. or, other Chief Officer or Magistrate of any Town Corporate, Franchise or Liberty, as the Case is.

**The like Certificate by a Parson, Vicar, &c.**

Midd. ff. **M**emorand', that A. B. of the Parish of Pancras, in the County aforesaid, Cow-keeper, came this present Day of 1727. before me C. D. Clerk, Vicar of the Parish Church of St. Pancras aforesaid, and made such Affidavit as is above specified, pursuant to an Act of Parliament made in the 32d Year of the Reign of his late Majesty King Charles the Second, entituled, (An additional Act for burying in Woollen.) Witness my Hand the Day and Year above-written.

The

The Minister's Notice to the Church-wardens, &c. of the Parish where the Deceased was buried, that no Affidavit of the Corpse being buried in Woollen had been brought to him in eight Days.

To the Church-wardens and Overseers of the Poor of the Parish of St. Mary le Savoy.

Liberty of **F** Orasmuch as the Corpse of A. B. of this Westm. H. Parish, Single-woman, was on the Day of this Instant, buried in some usual Burying-Place within the same, as appears by the Register of the Burials of this said Parish: These are therefore, in Pursuance of the said Act, to give you Notice, that no Affidavit that the said Corpse was buried in Woollen hath been brought to me before the Day of the Date hereof, being above eight Days from the Day of the said Burial. In Witness whereof, I have hereunto set my Hand, this Day of Annag. Dom. 1727.

The Minister's Certificate to a Justice of Peace, that no such Affidavit was brought to him within eight Days after the Deceased's Interment, according to 30 Car. 2. c. 3.

To Sir A. B. Knight, one of his Majesty's Justices of Peace for the Liberty of the City of Westminster, the Certificate of C. D. Minister of the Parish Church of St. Mary le Savoy, within the said Liberty.

**T** Hese are to certify, that the Corpse of A. B. of the Parish aforesaid, Single-woman, was buried in the said Parish on Thursday the 12th of this Instant April, as appears by the Register of the Burials of the said Parish; and that, within eight Days next after the said Burial, no Affidavis hath been brought to me concerning the Burial of the said A. B. in Woollen, pursuant to the Statute of 30 of the late King Charles the Second, in that Case made and provided. Witness my Hand this 30th Day of April, &c. A

# A Warrant to levy the Penalty of Five Pounds for Want of such an Affidavit.

*Liberty of* **W** *Hereas I have received a Certificate under*  
Westm. II. *the Hand of C. D. Rector of the Parish*  
*of St. Mary le Savoy, bearing Date the 30th Day of, &c.*  
*that A. B. was buried in the said Parish on Thursday the*  
*12th Day of April last, and that no Affidavit was brought*  
*to the said C. D. within eight Days afterwards, that the*  
*said A. B. was buried, or wrapped in no other Materials*  
*but Sheep's Wool only, pursuant to the Statute in that Case*  
*made and provided: By Means whereof, the Sum of Five*  
*Pounds is forfeited by the said Act, to be levied by Distress*  
*and Sale of the Goods and Chattels of such Persons as are in*  
*the said Act specified to be liable thereto, and herein after*  
*particularly expressed: These are therefore, in his Majesty's*  
*Name, strictly to charge and command you, that you, or*  
*some of you, do forthwith levy, or cause to be levied, the said*  
*Sum of Five Pounds so forfeited as aforesaid, by Distress and*  
*Sale of the Goods and Chattels of the said A. B. deceased;*  
*or in Default thereof, by like Distress and Sale of the*  
*Goods and Chattels of the Person in whose House the*  
*said Party deceased died; and, for Want thereof, of the*  
*Goods and Chattels of such Person that had a Hand in put-*  
*ting the said Deceased in any Shirt, Shift, Shroud or Cof-*  
*fin, contrary to the said Act, or of any Person that did or-*  
*der or dispose the doing thereof. And if the said Party de-*  
*ceased were a Servant, and died in the Family of her Ma-*  
*ster or Mistress, then upon the Goods and Chattels of such*  
*her Master or Mistress; and in Case the said A. B. died in*  
*the Family of her Father or Mother, or other Relation, that*  
*then you, or some of you, do levy the said Forfeiture upon the*  
*Goods and Chattels of such Parent or Relation, returning*  
*the Overplus, (if any such shall be after your reasonable*  
*Charges and Expences shall be first deducted,) to the respective*  
*Persons whose Goods you shall so distrain, as aforesaid: One*  
*Moiety of the said Forfeiture by the said Act to be applied to*  
*the Use of the Poor of the said Parish where the Party deceased*  
*is buried, and the other Moiety to the Use of him or them who*  
*will sue for the same: And herof fail not. Given, &c.*

A like Warrant may be made, *Mutatis Mutandis*, to  
levy Five Pounds upon the Overseers of the Poor of  
any Parish, who shall neglect or refuse to give an Ac-  
count of their Burials to the Justices, from Time to  
Time, as is required of them by the Act 30 Car. 2.  
cap. 3.

Wreck'd



## Wreck'd Ships, Goods, &c.

**B**Y Stat. 3 E. 1. & 4 E. 1. *de Officio Coronatoris*, where a Man, Dog, or Cat, escape alive out of the Ship, neither the Ship or other Vessel, or any thing therein, shall be adjudged Wreck.

No Wreck where any living Creature gets ashore.

And by Stat. 17 E. 2. *de Prerogativa Regis*, the King shall have Wreck of the Sea Whales and great Sturgeons, taken in the Sea and elsewhere, throughout the whole Realm, except in Places privileged by the King.

By Stat. 1 Ann. c. 9. Captains and Mariners belonging to Ships, wilfully destroying the same, to the Prejudice of the Owners and Merchants, shall suffer Death as Felons.

Mariners wilfully destroying Ships guilty of Felony without Clergy.

The said Offence committed on the High Seas, shall be determined in such Places in the Realm as shall be limited by the King's Commission, according to 28 H. 8. c. 15. and Persons indicted for the said Offence, standing mute, or challenging above 20 Jurors, shall suffer Death, without Benefit of Clergy.

By Stat. 12 Ann. Sess. 2. c. 18. it is enacted, that the Sheriffs, Justices of Peace, Mayors, Bailiffs, and other Head Officers of Cities, Corporations and Port-Towns, near the Sea; and all Constables, Headboroughs, Tithing-men and Officers of the Customs, on Application to them made, by or on Behalf of any Commander or Chief Officer of any Ship or Vessel in Danger of being stranded, or run on shore, shall command the Constables nearest the Sea-Coast, where such Ship shall be in Danger, to call together as many Men as shall be necessary to the Assistance and Preservation of such Ships, &c. and their Cargoes.

What must be done when a Ship is in Danger of sinking.

And if there shall be any Ship of War, or other Ship lying at Anchor near the Place, the Officers of the Customs, and Constables aforesaid, are to demand of the superior Officers of such Ships, Assistance by their Boats, and as many Hands as they can spare, for the Service and Preservation of the Ship in Distress;

## Wreck'd Ships, &amp;c.

and if such Officer shall refuse such Assistance, he forfeits 100 l. to the Superior Officer of the Ship in Distress, to be recovered, with Costs of Suit, in any Court of Record, by Action of Debt, Bill, &c. and no Effoin, &c.

Such Officers of the Customs, Commanders of Ships, and all others so employed in preserving such Ship or Cargo, shall, within thirty Days after, be paid a reasonable Reward for the same, by the Commander, Master or Owner of the Ship in Distress, or by the Merchant whose Ship or Goods were saved; and in Default thereof, the Ship or Goods, so saved, shall remain with the Officer of the Customs, or his Deputy, till all the Charges be paid, and the said Officer and Deputy, and the Master and Mariners of the Ship assisting, be reasonably gratified, or good Security to be given for the same.

Three next Justices to decide all Differences, &c.

And if any Difference arise about the Salvage, three neighbouring Justices shall adjust the *Quantum*, to be paid to the Persons acting therein, which shall be binding to all Parties, and recoverable by an Action at Law in any of the King's Court of Record.

If Goods are not claimed in 12 Months, must be sold by Custom-house Officer, &c.

And if Goods are not claimed in twelve Months, the Chief Officer of the Customs of the nearest Port, shall apply to three of the nearest Justices, who shall put him, or some responsible Person, in Possession of the Goods, the Justices taking an Account thereof in Writing, signed by the said Officer; and all Goods not claimed within twelve Months after by the right Owner, shall be publicly sold, or, if perishable, presently sold; and, after all Charges deducted, the Residue of the Monies, with a fair and just Account of the Whole, transmitted to the Exchequer, there to remain for the Benefit of the Owner when appearing, who on Affidavit, or other Proof of his Property thereto, to the Satisfaction of one of the Barons of the Coif there, shall, upon his Order, receive the same out of the Exchequer.

Penalty on Persons entering such Ships without Leave.

All Persons entering into such Ships in Distress, without Leave from the Commander, Officer of the Customs, Constable, Headborough, &c. or molesting any one in saving the Ship or Goods, or when saved, shall deface the Marks of the Goods before the same are taken down in Books, to be provided by the Commander and Chief Officer of the Customs, such Person shall, within twenty Days, make double Satisfaction to the Party grieved, at the Discretion of the two next Justices of Peace; or, in Default thereof, shall

be sent by the said two Justices to the House of Correction, and there kept to hard Labour for twelve Months. And every Commander, Officer of the Customs, Constables, &c. may by Force repel such Persons who shall press on board the said Ship in Distress without Leave, or molest them in preserving the said Ship or Cargo.

All Goods carried off from such Ship, and found on any Person, shall, on Demand, be delivered to the Owner, or the Person shall be liable to pay treble the Value of such Goods, to be recovered by the Owner in an Action at Law. Persons stealing Goods out of such Ship forfeit treble the Value.

And any Person making Holes in the Bottom, Side, or in any Part of the Ship, or stealing any Pump, or doing any thing tending to the Loss of the Ship, shall be guilty of Felony, without Benefit of Clergy.

The general Issue may be pleaded to any Action brought for any thing done in Pursuance of this Act, and this Act and the special Matter given in Evidence; and if the Plaintiff be Nonsuit, or forbear Prosecution, or discontinue, or a Verdict be against him, or Judgment on Demurrer, the Defendant is to have full Costs, recoverable as if awarded by Law. General Issue pleaded to all Actions on this Statute, &c.

This Act shall be allowed in all Courts to be a public Act, and all Judges and Justices to take Notice thereof, without special pleading the same. This to be a public Act.

If any Officer of the Customs, or his Deputy, abuse the Trust reposed in him, and shall be legally convicted thereof, he shall forfeit treble Damages to the Party grieved, to be recovered by Action of Debt in a Court of Record, and be incapable of any Employment in the Customs.

This Act to be read four Times every Year, in all the Parish Churches and Chapels in Seaport-Towns, on the *Sundays* next before *Christmas*, *Lady-Day*, *Midsummer-Day*, and *Michaelmas-Day*, after the Prayers, and before the Sermon. This Act to be read 4 Times a Year, &c.

This Act shall not deprive the Crown, or any Grantee, of any Right or Claim to any Wreck or Goods that shall be Jetson, Flotsom, or Lagan.

This Act was to continue for 3 Years, from 1 Aug. 1714. and thence to the End of the next Sessions of Parliament.

By Stat 4 G. 1. c. 12. the said Act, and all the Clauses therein, are made perpetual; and it is further enacted, that the Act 12 Ann. c. 18. shall not in any ways affect the ancient Jurisdiction and Usage of the Admiralty Court of the Cinque Ports, or the Officers there- The Act made perpetual, not to affect the Cinque Ports.



If any Master,  
&c. lose a Ship  
wilfully,  
'tis Felony  
without Cler-  
gy.

to belonging, but the proper Officers of the said Court shall put the said A& in Execution within the Jurisdiction of the Cinque Ports, in as full and ample Manner as any other Persons are by the said A& appointed to do in any other Parts of this Kingdom.

If any Owner or Captain, Master, Mariner, or other Officer, belonging to any Ship, shall wilfully cast away, burn, or otherwise destroy the Ship of which he is Owner, or to which he belongs, or in any manner of wise direct or procure the same to be done, to the Prejudice of any Persons who shall under-write any Policy of Insurance thereon, or of any Merchants who shall load Goods thereon, he shall suffer Death.

4 G. 1. c. 12.

By Stat. 5 G. 1. c. 11. all Goods, &c. which shall be salv'd out of any Ship forced on Shore, or stranded, (not being wreck'd Goods) shall, after Salvage and other Charges paid, be liable to the like Customs, Drawbacks, and Allowances, as such Goods, &c. would be liable to in case they were regularly imported.

Whoever has a mind to read more on this Subject, may have Satisfaction in *Molloy de Jure Maritimo & Navali.*

## Words spoken against the King's Title to the Crown.

Words must be  
inform'd of in  
three Days,  
&c.

Words spoken against the King's Title to the Crown, must be informed of within three Days, to one Justice, by two Witnesses, by 4 & 5 Ann. c. 6. & 6 Ann. c. 7.

through

## Wrought Plate.

**B**Y Stat. 6 G. 1. c. 11. every Officer for the Du-Justice may  
ties on wrought Plate, or Manufactures of Sil- give the Officer  
ver, who shall be impowered to make a Charge on his Oath.  
the Maker or Worker of Plate, &c. shall in the first  
Place, be sworn for the due and faithful Execution of  
his Office, by any Justice of Peace, who shall give  
such Officer a Certificate thereof.

## York County.

**B**Y Stat. 8 Ann. c. 4. three or more Commissioners Three or more  
for putting the Act in Execution for recruiting Justices of a  
Soldiers in the several Ridings in *Yorkshire*, (being Ju- Riding may  
stices of Peace) tho' not all of the said Riding, may act as for the  
execute the Powers, &c. within the Castle of *York*. whole County,  
&c.

By Stat. 2 Ann. c. 4. a publick Register was settled A publick Re-  
at *Wakefield* for the West-Riding of *Yorkshire*, wherein gister set up in  
a Memorial of all Deeds, Conveyances and Wills, the West Ri-  
since 1704. affecting any Hereditaments in the said ding of *York*-  
West-Riding, are to be registred. shire.

Register must be chose by Balloting of Freeholders The Method  
who have 100 l. a Year or more; and the major Part of choosing the  
of the Justices of that Riding, or any five of them, Register, &c.  
shall be Scrutators of the Poll.

As oft as the Office of Register shall be vacant, the  
next General Quarter-Sessions shall declare the Va-  
cancy.

Three Justices, &c. may swear the Register, and Three Justices  
two his Deputy; and when the Register is sworn, he may swear  
must immediately enter into a Recognizance of 2000 l. him, &c.  
with two Sureties or more, (approved of by five Ju- He must give  
stices, present at the Election, in Writing, to be re- Bond, &c.  
gistred at next General Quarter-Sessions,) the same  
to be transmitted to the Exchequer.

If no Misbehaviour appear in three Years after the Death or Surrender of the Register, the Recognizance shall be void.

Forging Memorial, &c. liable to 5 *El.* c. 9.

Forger of Memorial or Certificate, liable to the Penalties of 5 *El.* c. 9.

This Act shall be taken to be a publick Act. *Vide* the Act at large.

And another Stat. *Anno* 5 *Ann.* c. 18. was made for enforcing the last mentioned Statute.

A publick Register set up in the East-Riding of Yorkshire, with much the same Clause, &c.

And by Stat. 6 *Ann.* c. 35. another Register was set up and established at *Beverly* for the East-Riding of Yorkshire and Town of *Kingston upon Hull*, &c. with much such Clauses, &c. as by the Act 2 *Ann.* c. 4. for the West-Riding aforesaid, And all Clauses, Matters and Things contained in this Act, not contained in 2 *Ann.* c. 4. or in 5 *Ann.* c. 18. shall affect all the Hereditaments in the said West-Riding, the Mortgage or Purchase whereof shall exceed 50 *l.* And all Persons in the Execution of the recited Acts, shall observe the Directions of this Act as to all the Hereditaments lying in the West-Riding.

But see the Acts at large.

And for Yorkshire Cloth, see Title Cloth.



A TA.



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